Emerging Issues Copyright 2010, Matthew Bender & Company, Inc., a member of the LexisNexis Group. All Rights Reserved.

***The 2010 Gulf Oil Spill and Questions of Liability***

2010 Emerging Issues 5281

The 2010 Gulf Oil Spill and Questions of Liability  
  
By Andrea J. Chambers and Jerry D. Brown

August 25, 2010

**SUMMARY:** The Gulf oil spill of 2010 has rapidly generated a proliferation of lawsuits and legislative proposals. This Emerging Issues Analysis discusses the facts and circumstances surrounding the Deepwater Horizon explosion and Gulf oil spill and analyzes the legal issues raised and the legislative responses now being considered by Congress.  
  
**PDF LINK:** Click here for enhanced PDF of this Emerging Issues Analysis at no additional charge  
  
**ARTICLE:** The offshore oil drilling industry will be forever changed by the explosion of the Transocean Deepwater Horizon drilling rig and subsequent oil spill in the Gulf of Mexico on April 20, 2010. This article briefly discusses the facts and circumstances surrounding the Deepwater Horizon explosion and Gulf oil spill and analyzes the legal issues raised and the legislative responses now being considered by Congress. It points to the urgent need for the energy industry to actively engage in the transformation of the regulatory and legal landscape resulting from this disaster so that an effective new regulatory and legal framework will allow the industry to thrive.  
  
**Background**  
  
The Deepwater Horizon drilling rig, built in 2001, was a semi-submersible mobile offshore drilling rig, capable of operating in water up to 8,000 feet deep and able to drill down to 30,000 feet. The Horizon was owned by Transocean Services, Ltd. ("Transocean"), and was under lease to British Petroleum, PLC ("BP") from March 2008 to September 2013. At the time of the explosion, the Horizon was drilling an exploratory well 5,000 feet below the ocean's surface in the Macondo Prospect, about 41 miles off the Louisiana coast. Halliburton Energy Services, Inc. ("Halliburton") was installing production casing and cement for the newly drilled exploratory well, which was to be tested for integrity, and a cement plug set, after which no further activities would take place until the well was later activated as a subsea producer. **[1](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n1" \t "_self)**  
  
The Deepwater Horizon explosion of April 20 caused a rupture in the wellhead on the Gulf floor, **[2](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n2" \t "_self)** resulting in the largest offshore spill in history. **[3](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n3" \t "_self)** By early June 2010, it was estimated to be among the largest oil spills in history, with hundreds of millions of gallons of oil spilled into the Gulf of Mexico to date. The explosion killed 11 rig workers and injured 17 others. As of July 15, 2010, BP appeared to have capped the gushing oil wellhead, though there remained a risk that a significant pressure shift could create a new leak on the sea floor. **[4](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n4" \t "_self)** The drilling of relief wells to relieve this pressure and permanently close the well is ongoing and nearly completed.  
  
The Flow Rate Technical Group and a team of scientists with the U.S. Department of Energy estimate that roughly 4.9 million barrels of oil have been released as a result of the Gulf oil spill. The flow rate of released oil was first estimated at 62,000 barrels a day at the start of the spill in late April. This estimate was reduced to 53,000 barrels a day immediately before the well was sealed on July 15. **[5](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n5" \t "_self)** The resulting oil slick covers at least 2,500 square miles. **[6](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n6" \t "_self)** Scientists have also reported immense underwater plumes of oil not visible from the surface. **[7](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n7" \t "_self)**  
  
To date, almost 116,000 claims have been submitted to BP and more than 67,500 payments have been made, totaling $207 million. **[8](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n8" \t "_self)** Including the cost of the spill response, containment, relief well drilling, grants to the Gulf states, payment of claims, and U.S. government costs, BP claims to have already spent $3.95 billion. **[9](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n9" \t "_self)** The spill has the potential to cause extensive damage both to marine and wildlife habitats on the Gulf coast and to the Gulf's fishing and tourism industries. The U.S. government named BP as the responsible party for the oil spill. **[10](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n10" \t "_self)**  
  
**Legal Issues**  
  
The Gulf oil spill has rapidly generated a proliferation of lawsuits, raising numerous legal issues with lasting wide-ranging consequences, not only for the litigating parties but for the energy industry as well.  
  
The number of claims is expected to grow considerably. Moreover, in addition to potential liability for personal injury and property damage claims, numerous other federal laws are implicated in the Deepwater Horizon explosion and the resulting oil spill, raising numerous and serious potential liabilities for BP, Transocean and Halliburton. Moreover, issues have been raised about the government's oversight of offshore drilling—specifically, possible failures to properly regulate BP, Transocean and Halliburton. **[11](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n11" \t "_self)**  
  
Further, the Obama administration's response to the oil spill has been subjected to legal challenge. Specifically, a six-month moratorium against new offshore drilling in the Gulf of Mexico issued by the U.S. Department of the Interior ("DOI") was challenged in a complaint for an injunction on the grounds that the DOI failed to establish a proper and sufficient record to support the moratorium. **[12](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n12" \t "_self)**  
  
Several congressional hearings into the explosion have already taken place, with at least one BP employee invoking his Fifth Amendment rights against testifying. **[13](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n13" \t "_self)** Changes to existing regulations have already been proposed, with more changes likely to follow.  
  
The U.S. Justice Department has initiated both civil and criminal investigations into the explosion and oil spill.  
  
**Oil Spill Legal Overview**  
  
This overview lays out the most common types of legal actions that will arise from a disaster like the BP Deepwater Horizon explosion and oil spill and analyzes the potential long-term impacts in terms of new legislation, new regulations, and new legal liability.  
  
The Gulf oil spill has already generated litigation involving:  
  
  
Data in Imageclaims for economic damages, filed by many Gulf Coast businesses (especially in the fishing and tourism industries, which have already claimed severe impact from the effects of the oil spill);  
Data in Imageclass action suits for such claims in federal courts based on state common law negligence theories and state and federal RICO statutes; **[14](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n14" \t "_self)**  
Data in Imagederivative actions by BP shareholders under the Securities and Exchange Act of 1934 (15 U.S.C. § 78a *et seq.*); **[15](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n15" \t "_self)**  
Data in Imageclaims for violations of environmental statutes and procedures under the section 311 of The Clean Water Act ("CWA") of 1972 (33 U.S.C. § 1251 *et seq.*); **[16](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n16" \t "_self)**  
Data in Imagethe National Environmental Policy Act ("NEPA"); **[17](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n17" \t "_self)**  
Data in Imagethe Administrative Procedure Act (5 U.S.C. § 551 *et seq.*) and the National Environmental Policy Act ("NEPA") (42 U.S.C. § 4331 *et seq.*); **[18](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n18" \t "_self)**  
Data in Imagethe Jones Act (46 U.S.C. § 30104), the federal law governing personal injury or wrongful death lawsuits by seamen against their employer; **[19](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n19" \t "_self)**  
Data in Imagethe Limitation of Liability Act of 1851, **[20](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n20" \t "_self)**  
Data in Imagedeclaratory judgment actions regarding indemnification provisions in contracts between BP and Transocean; **[21](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n21" \t "_self)**  
Data in Imagethe Oil Pollution Act of 1990 (33 U.S.C. § 2701 *et seq.*) ("OPA");  
Data in ImageERISA; **[22](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n22" \t "_self)** and  
Data in Imagethe Outer Continental Shelf Lands Act ("OCSLA") (43 U.S.C. § 1340 and 30 C.F.R. 250.203). **[23](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1" \l "n23" \t "_self)**  
  
**Legislative Proposals**  
  
Numerous congressional hearings on the Gulf Oil Spill have already taken place, with various legislative proposals now under consideration, such as the **Outer Continental Shelf Reform Act of 2010** (S. 3516), which seeks to revamp OCSLA and broaden the DOI's role in ensuring environmental and safety standards are met before oil companies receive offshore drilling leases and permits; the Blowout Prevention Act of 2010 (H.R. 5626), which would expand regulation of all "high-risk" offshore and onshore wells, allow citizen lawsuits against oil producers, and prohibit drilling without blowout preventers; the **Consolidated Land, Energy and Aquatic Resources (CLEAR) Act** (H.R. 3534), which would prohibit oil companies with poor safety records from getting new offshore drilling leases, deny permits and leases for federal law violations such as worker deaths, implement large fines, and introduce specific guidelines for the use of oil and gas royalties; the **Big Oil Bailout Prevention Liability Act** (S. 3305), which would remove the liability cap for offshore drilling, making oil companies responsible for all cleanup costs and damages, and require detailed oil spill response plans and predictions of worst-case scenario impacts from oil companies; the **Oil Spill Accountability and Environmental Protection Act of 2010** (H.R. 5629), which would remove the financial liability cap for oil companies and require all oil rigs operated within 200 miles off the U.S. coast to be owned by American citizens; the **Department of Interior Research and Technologies for Oil Spill Prevention and Response Act** (S. 3515), which would require the DOI to carry out in-depth research on oil spill prevention and response technology, direct the EPA to conduct a pilot program with demonstration in deep water, and provide the program with $25 million from a trust fund; and a **bill "[t]o give subpoena power to the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling"** (H.R. 5481), which would authorize President Obama's oil spill investigation commission to subpoena witnesses and records with approval from the U.S. Attorney General and would allow the Attorney General to prosecute those disobeying subpoenas.  
  
The proposed legislation discussed above seeks to tighten safety standards in the offshore drilling industry, requiring proof that drillers are in compliance with the regulations and are able to effectively respond to another rig explosion and oil spill.  
  
**Conclusion**  
  
The Gulf oil spill will cause significant changes in the offshore drilling industry, in terms of the industry's understanding of its potential liability for accidents, regulatory non-compliance, and negligence and willful misconduct. Moreover, the spill will result in major changes in the regulations that apply to offshore drilling. The merits of the legislative proposals outlined above are certain to be vigorously debated. This is the time for the energy industry to actively engage in the rulemaking process in order to promote responsible regulations that are effective, yet allow the industry to achieve healthy growth while responsibly meeting energy needs in the future.  
  
  
  
  
Return to Text  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r1)**n1 *See* <http://latimesblogs.latimes.com/greenspace/2010/04/gulf-oil-spill-the-halliburton-connection.html>.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r2)**n2 *See* <http://www.goerie.com/apps/pbcs.dll/article?AID=/20100512/NEWS07/305129953/-1/RSS>.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r3)**n3 *See* <http://www.cnn.com/2010/US/08/03/gulf.oil.largest.spill/index.html>.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r4)**n4 *See* <http://www.upi.com/Top_News/US/2010/07/16/Oil-rig-news-good-news-on-London-markets/UPI-43731279279054>.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r5)**n5 *See* <http://news.yahoo.com/s/nm/20100802/us_nm/us_oil_spill>.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r6)**n6 *See* <http://www.csmonitor.com/USA/2010/0515/Gulf-spill-oil-driven-by-complex-ocean-currents-and-eddies>.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r7)**n7 *See* <http://www.dailypress.com/news/national/sns-bp-oil-plumes,0,5537415.story>.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r8)**n8 *See* <http://money.cnn.com/2010/07/19/smallbusiness/bp_mobile_claim_centers/index.htm>.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r9)**n9 *See* <http://uk.reuters.com/article/idUKTRE66I0W720100719>.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r10)**n10 *See* <http://houston.bizjournals.com/houston/stories/2010/04/26/daily6.html>.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r11)**n11 Center For Biological Diversity, Inc. v. BP America, Inc.; BP Exploration & Production, Inc.; BP, PLC; Transocean Ltd.; Transocean, Inc.; and Transocean Offshore USA, Inc. , U.S. District Court, E.D. Louisiana, No. 10-CV01768.  
  
Defenders of Wildlife v. MMS, No. 10-254 (S.D. Ala.); Center for Biological Diversity v. Salazar, Case No. 1:10-cv-00816-HHK (D.D.C. 2010); Center for Biological Diversity v. Salazar, Case No. 10-60417 (5th Cir. 2010). In addition, Sierra Club has challenged MMS's failure to comply with NEPA in approving five deepwater exploration plans in reliance on an overbroad categorical exclusion (Gulf Restoration Network, Inc. and Sierra Club, Inc. v. Ken Salazar, Secretary of the Department of Interior; Wilma Lewis, Assistant Secretary, Land and Minerals Management, Department of the Interior; S. Elizabeth Birnbaum, Director Minerals Management Service, Department of the Interior, U.S. District Court, E.D. Louisiana, Case No. 10CV01497), and CBD has similarly challenged MMS's NEPA violations with respect to 39 exploration and development plans in the Gulf. Center for Biological Diversity v. Salazar, Case No. 10-60417 (5th Cir. 2010).  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r12)**n12 Hornbeck Offshore Services, LLC, *et al.* v. Kenneth Lee "Ken" Salazar, in his official capacity as Secretary, United States Department of the Interior; United States Department of the Interior; Michael R. Bromwich, in his official capacity as Director, Bureau of Ocean Energy Management, Regulation, and Enforcement; and Bureau of Ocean Energy Management, Regulation, and Enforcement. Case No. 10-1663(F)(2) (U.S. District Court, E.D. Louisiana (696 F. Supp. 2d 627).  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r13)**n13 *See* <http://www.mcclatchydc.com/2010/05/26/94884/bp-could-be-held-criminally-liable.html>.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r14)**n14 Bon Secour Fisheries, Inc.; and Bon Secour Boats, Inc.; individually and on behalf of themselves and all others similarly situated v. BP, PLC; BP Products North America, Inc.; BP America, Inc.; Transocean, Ltd.; Transocean Offshore Deepwater, Inc.; Halliburton Energy Services, Inc.; and Cameron International Corporation f/k/a Cooper Cameron Corporation, U.S. District Court, S.D. Alabama, Case No. 10-206; Fort Morgan Sales, Rentals & Development, Inc.; Prickett Properties, LLC; and Margaritaville, LLC v. Transocean Holdings, Inc.; Transocean Offshore Deepwater Drilling, Inc.; Transocean Deepwater, Inc.; BP, PLC; BP Exploration and Production, Inc.; BP America, Inc.; BP Products North America, Inc.; Halliburton Energy Services, Inc.; and Cameron International Corporation, f/k/a Cooper-Cameron Corporation, U.S. District Court, S.D. Alabama, Case No. 10-CV00203; George C. Simpson, individually and on behalf of all others similarly situated v. Transocean, Ltd; BP, PLC; Transocean, Ltd, (Transocean Entity); Transocean Offshore Deepwater Drilling, Inc. (Transocean Entity); Transocean Deepwater, Inc. (Transocean Entity); BP Products North America, Inc.; Halliburton Energy Services, Inc.; Cameron International Corporation; and BP America, U.S. District Court, S.D. Alabama Case No. 1:10-cv-00210.  
  
The National Vietnamese American Fishermen Emergency Association, Nam Nguyen, and Hung Tran v. BP, PLC, BP Products North America, Inc., BP America, Inc., Transocean, Ltd., Transocean Offshore Deepwater Drilling, Inc., Transocean Deepwater, Inc., Halliburton Energy Services, Inc. and Cameron International Corporation f/k/a Cooper Cameron Corporation, U.S. District Court, S.D. Texas, Houston Division, Case No. 4:10-cv-01607.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r15)**n15 Donald P. Foley, on behalf of himself and all others similarly situated v. Transocean Ltd., Steven L. Newman, and Robert L. Long, U.S. District Court, S.D. New York, Case No. 10 CV 5233.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r16)**n16 Center For Biological Diversity, Inc. v. BP America, Inc.; BP Exploration & Production, Inc.; BP, PLC; Transocean Ltd.; Transocean, Inc.; and Transocean Offshore USA, Inc., U.S. District Court, E.D. Louisiana, No. 10-CV01768.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r17)**n17 Defenders of Wildlife v. MMS, No. 10-254 (S.D. Ala.); Center for Biological Diversity v. Salazar, Case No. 1:10-cv-00816-HHK (D.D.C. 2010); Center for Biological Diversity v. Salazar, Case No. 10-60417 (5th Cir. 2010). In addition, Sierra Club has challenged MMS's failure to comply with NEPA in approving five deepwater exploration plans in reliance on an overbroad categorical exclusion (Gulf Restoration Network, Inc. and Sierra Club, Inc. v. Ken Salazar, Secretary of the Department of Interior; Wilma Lewis, Assistant Secretary, Land and Minerals Management, Department of the Interior; S. Elizabeth Birnbaum, Director Minerals Management Service, Department of the Interior, U.S. District Court, E.D. Louisiana, Case No. 10CV01497), and CBD has similarly challenged MMS's NEPA violations with respect to 39 exploration and development plans in the Gulf. Center for Biological Diversity v. Salazar, Case No. 10-60417 (5th Cir. 2010).  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r18)**n18 Gulf Restoration Network, Inc. and Sierra Club, Inc. v. Ken Salazar, Secretary of the Department of Interior; Wilma Lewis, Assistant Secretary, Land and Minerals Management, Department of the Interior; S. Elizabeth Birnbaum, Director Minerals Management Service, Department of the Interior, U.S. District Court, E.D. Louisiana, Case No. 10CV01497.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r19)**n19 Williams v. Transocean, Ltd., U.S. District Court, E.D. Louisiana, Case No. 10-1243.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r20)**n20 Certain Underwriters at Lloyd's, London and Various Insurance Companies, v. BP PLC, BP Exploration & Production, Inc., BP America Production Company, BP Corporation North America, Inc., BP Company North America, Inc., BP Products North America, Inc., BP America, Inc. and BP Holdings North America Limited, Case No. 10-CV01823, U.S. District Court, S.D. Texas, Houston Division.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r21)**n21 *Id.*  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r22)**n22 Maureen S. Riley, Individually, On Behalf of the BP Employee Savings Plan, BP Capital Accumulation Plan, BP Partnership Savings Plan, BP DirectSave Plan, and on Behalf of All Others Similarly Situated v. BP Corporation North America, Inc., BP America, Inc., BP P.L.C, BP Corporation North America Inc. Savings Plan Investment Oversight Committee, Investment Committee, Anthony B. Hayward, Lamar McKay, Gregory T. Williamson, Stephanie C. Atkins, Richard J. Dorazil, Neil Shaw, Thomas L. Taylor, Byron E. Grote, State Street Bank and Trust Company, U.S. District Court, N.D. Illinois, Eastern Division, Case No. 10-CV04448.  
  
Jerry T. McGuire, Individually, On Behalf of the BP Employee Savings Plan, BP Capital Accumulation Plan, BP Partnership Savings Plan, BP DirectSave Plan, and On Behalf of All Others Similarly Situated v. BP Corporation North America, Inc., BP America, Inc., BP PLC, BP Corporation North America Inc. Savings Plan Investment Oversight Committee, Investment Committee, Anthony B. Hayward, Lamar McKay, Gregory T. Williamson, Stephanie C. Atkins, Richard J. Dorazil, Neil Shaw, Thomas L. Taylor, Byron E. Grote, State Street Bank and Trust Company, U.S. District Court, N.D. Illinois. Eastern Division, Case No. 10-CV04337.  
  
  
  
**[Click here to return to the footnote reference.](https://www.lexis.com/research/retrieve?_m=dd6457b5215e1b48510daf5a8898f9e9&_browseType=TEXTONLY&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLzVlb-zSkAl&_md5=f075cd1349b79a979be0e40ee000f4e1#r23)**n23 Center for Biological Diversity, *et al*, v. BP, PLC, U.S. District Court, Eastern District of Louisiana, Case No. 10-vc-01866.   
  
**RELATED LINKS:** For additional information on Energy Law, see David J. Muchow and William A. Mogel,  
 Data in ImageEnergy Law and Transactions;  
 Data in ImageEnergy Law page.  
  
**PDF LINK:** Click here for enhanced PDF of this Emerging Issues Analysis at no additional charge  
   
  
  
**ABOUT THE AUTHOR(S):**  
**Andrea Chambers** is a partner with Foley & Lardner LLP and a member of the Energy Industry Team. She provides regulatory counsel to entities involved in the restructuring of electric and natural gas industries. Ms. Chambers earned her J.D. from American University and her B.A. from Georgetown University.  
  
  
  
**Jerry Brown** is an associate at Foley & Lardner LLP. He is a member of the firm's Energy Industry Team. He earned his law degree from the University of Minnesota School of Law where he was managing editor for the Journal of Law & Inequality. Mr. Brown earned his bachelor's degree from the University of Chicago.  
  
*Information referenced herein is provided for educational purposes only. For legal advice applicable to the facts of your particular situation, you should obtain the services of a qualified attorney licensed to practice law in your state.*

Top of Form



Bottom of Form

|  |
| --- |
| https://www.lexis.com/ri/s.gif |
| https://www.lexis.com/ri/s.gif |

|  |  |  |
| --- | --- | --- |
| https://www.lexis.com/ri/s.gif | Service: | **Get by LEXSEE®** |
| https://www.lexis.com/ri/s.gif | Citation: | **2010 Emerging Issues 5281** |
| https://www.lexis.com/ri/s.gif | View: | Full |
| https://www.lexis.com/ri/s.gif | Date/Time: | Wednesday, September 15, 2010 - 4:53 PM EDT |