

Governing Energy

A Jury of Your Peers

Volume 2 Number 23—December 2, 2013

During the first week of December 2013, the criminal trial starts for a former BP engineer accused of destroying evidence during the probe of the 2010 Deepwater Horizon incident.ⁱ Sometime in the future we will know its outcome and what if any punishment this individual will face. Moreover, this trial is billed as the “first” which suggest others may follow.

In our recent release of the second edition of the seminal research study, *The State of SEMS* we reviewed the early SEMS Audit results, due November 15, 2013. While seventy-two operators submitted audits on time, BSEE ordered five companies to halt offshore operations since they missed the deadline.ⁱⁱ

In addition, seven other companies that submitted audit plans but not the results have been ordered to complete the assessments immediately and ***certify under penalty of perjury*** that they have SEMS programs in place. Fines of up to \$40,000 per day can result.ⁱⁱⁱ

Conventional wisdom says that “we work in a dangerous industry and will always have accidents in the normal course of business.”^{iv} Pundits go on to believe that as a rule-of-thumb individual employees are not exposed to jail time in the course of their daily business.

Conventional wisdom has been turned on its head. Clearly, individual employees are being held accountable for actions in the criminal court system; regardless of their attorneys’ believe charges should not have been filed. Moreover, permits to operate have been revoked and substantial fines are likely.

It is time for new business and ethical models. The Normal Accident Theory is being challenged by new models of High Reliability Management techniques.^v This wake-up call should reverberate across global industry boundaries.

Are actions you take every day exposing you and your company to legal proceedings?

About the Author

Dr. [Scott M. Shemwell](#) has over 30 years technical and executive management experience primarily in the energy sector. He is the author of two books and has written extensively about the field of operations management. Shemwell is the Managing Director of The Rapid Response Institute, a firm that focuses on providing its customers with solutions enabling operations excellence and regulatory compliance management.

End Notes

- ⁱ <http://www.bloomberg.com/news/2013-12-02/ex-bp-engineer-begins-first-criminal-trial-from-oil-spill.html>
- ⁱⁱ Shemwell, Scott M. (2013, November). The State of SEMs: The Industry Transformation to a Culture of Safety-- An Overview of Current Deepwater Safety and Environmental Management Systems Practices and Trends (2nd Ed.). A PennEnergy Research Center Report. <http://ogjresearch.stores.yahoo.net/the-state-of-sems.html>
- ⁱⁱⁱ Ibid.
- ^{iv} Perrow, Charles. (1999). Normal Accidents: Living with High-Risk Technologies. New Jersey: Princeton University Press.
- ^v Holland, Winford "Dutch" E. and Shemwell, Scott M. (in press). Implementing a Culture of Safety: A Roadmap to Performance-Based Compliance. New York: Xlibris.