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As he had promised, Interior Secretary Ken Salazar today issued a new [decision memorandum](#) suspending certain deepwater drilling operations. Today's decision replaces the moratorium that the federal District Court in New Orleans [enjoined on June 22](#), and which the Fifth Circuit [declined to reinstate](#) last week.

As I made clear in [my post on the Fifth Circuit decision](#), I think both the District Court and the Fifth Circuit were wrong on the first moratorium. Even if they were right, however, this new one should pass muster.

The new decision calls a halt to exploratory drilling by rigs using subsurface blow-out preventers (the kind that failed on the Deepwater Horizon) or surface blow-out preventers on floating rigs, and to issuance of new permits for that kind of drilling. Like the first moratorium, it does not restrict production from existing wells. It will last until November 30, 2010, but could be lifted earlier if circumstances warrant.

The new decision squarely addresses the key concern of the District Court, which was that the first moratorium did not clearly explain the boundary line it drew (suspending exploratory drilling in more than 500 feet of water) or its conclusion that deepwater drilling threatened serious damage. The first time around, Secretary Salazar issued only a one-page memorandum. This time, he explains his reasoning in a detailed 30-page document, which in turn refers to a number of reports and other analyses since the Deepwater Horizon explosion. Secretary Salazar explains the special risks of subsurface floating rig blow-out preventers. He goes on to explain that the moratorium is necessary: (1) to allow more time for industry and government to understand and address what went wrong at the Macondo well; (2) to allow industry to figure out how to contain or control a deepwater blowout; and (3) because response resources are already stretched to the limit by the BP spill. (I might have added that BP has proved [it cannot live up to the terms of its response plan](#), and there

is no reason to think that other offshore operators could do any better.)

This decision should survive judicial review. But the last one should have too, and it didn't. What happens in the short term, should oil service companies again challenge the moratorium, depends just how results-oriented the courts are, and just how concerned they are with the (legally irrelevant) economic harm that might result from a pause. But because it seems likely that this moratorium would eventually hold up on the merits, and because it would be politically (and for that matter economically) silly to begin new drilling in the face of substantial uncertainty about what caused the Deepwater Horizon blowout, I would be very surprised if any lessees were to start new exploratory drilling even if the courts do temporarily enjoin this decision.