



# Shell Exploration & Production

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Minerals Management Service  
Attention: Rules Processing Team  
381 Elden Street, MS-4024  
Herndon, VA 20170-4817

Gentlemen:

**SUBJECT: OIL AND GAS AND SULPHUR OPERATIONS IN THE OCS - SAFETY AND ENVIRONMENTAL MANAGEMENT SYSTEMS-AD 15  
ANPR MAY 22, 2006, RIN 1010-AD 15**

Shell Exploration & Production Company (SEPCo) appreciates the opportunity to provide the Minerals Management Service (MMS) Rules Processing Team with comments and feedback on the Advanced Notice of Proposed Rulemaking (ANPR) concerning MMS' regulatory approach to Safety and Environmental Management Systems (SEMS) for operations conducted in the OCS. We realize that you have already received comments provided by the Offshore Operators Committee (OOC) and the American Petroleum Institute (API) and recognize that these industry associations represent a numerous and diverse base of companies conducting OCS operations. We at SEPCo have further analyzed the ANPR, the OOC and API comments and feel that it is appropriate to provide you with our own detailed comments. SEPCo firmly supports a systematic management system approach, and we are willing to share our approach with MMS. We would like to discuss with MMS how a SEMS pilot program, as proposed in the ANPR, would work, discuss benefits and drawbacks, and possible next steps.

## **Regulatory Background and MMS Goal in ANPR**

Under the OCS Lands Act, all activities conducted on the OCS must be in accordance with existing Federal statutes. MMS is responsible for implementing policies intended to maintain safety and environmental protection practiced by the industry while conducting operations in the OCS. The operator conducting the operation(s) is directly responsible for managing the performance of those operations safely and ensuring they prevent damage to the environment. This is the case whether the management of operations is through operator company personnel, contract personnel, or a mix of both.

The MMS goal is twofold. MMS wants to improve upon the current regulatory approach to safety and environmental management systems to further minimize injuries, fatalities, accidents, fires, explosions, collisions, pollution incidents, or damage to the marine environment with respect to all oil and gas operations on the OCS. MMS is considering moving away from prescriptive regulations in areas where industry can demonstrate that a performance-based regulatory approach will increase the current level of safety and environmental protection. MMS also wants to improve the efficiency of the current regulatory system by making it more responsive to innovative approaches and technological and environmental changes. MMS realizes the challenges in attaining such goals and recognizes the progress of industry as a whole in moving toward these goals.

## SEPCo Approach

SEPCo is committed to operational safety and environmental excellence, pursuing the goal of "no harm to people" and "protecting the environment". To help achieve these goals, we have determined that a systematic approach to HSE management via a documented HSE Management System (HSE MS) is required. SEPCo in the US has devoted the past six years to improving its HSE MS, demonstrating implementation at all operating sites in the form of HSE Cases, and through external, third-party certification of all operating sites to the ISO 14001 Standard. SEPCo was the first U.S. exploration and production company to have completed HSE Cases and ISO 14001 certification for all of its operations. We believe that this is a higher level of operational safety and environmental management, fully integrating the MMS's Safety and Environmental Management Program (SEMP), the U.S. Coast Guard's "Prevention Through People" (PTP) Program, and SEPCo's HSE MS.

Shell's operations in Europe experienced the early forms of a goal-based approach to managing major hazards as a result of the European Seveso Directive, which was introduced following a release of dioxin in Italy. However, the Piper Alpha offshore disaster, and subsequent public inquiry, caused SEPCo to re-asses how we manage safety in complex, high hazard activities like offshore drilling and production. From the early 1990's, all Shell E&P operations outside of the USA had to:

- Prepare a safety management system to **describe** how the health and safety hazards are managed. The elements of the management system were based on the elements of a model management as described in typical quality models, such as ISO 9000
- Prepare a Safety Case that **demonstrates** how the risks from major hazards are reduced to ALARP (As Low As Reasonably Practical)

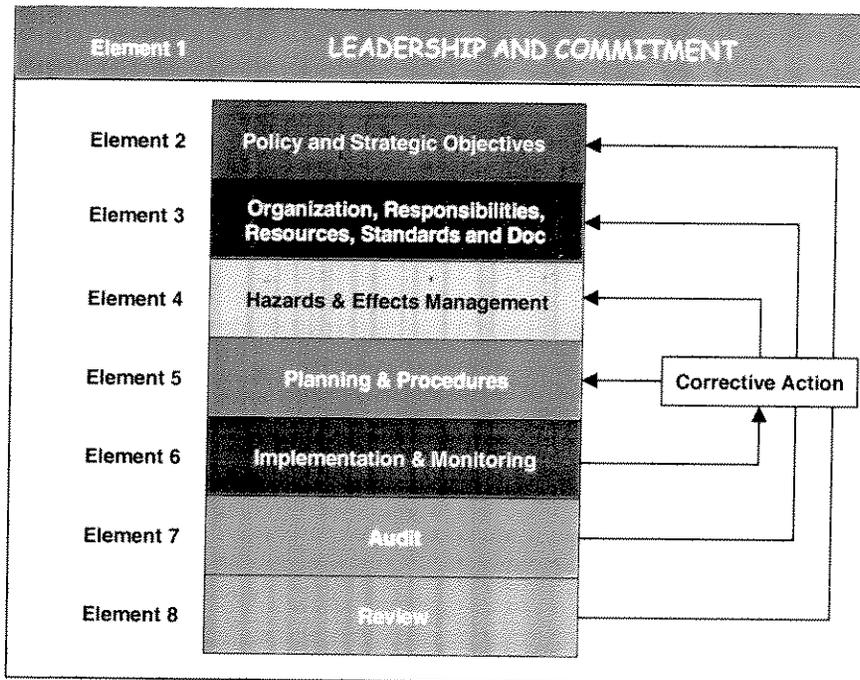
Since that time, these requirements have been extended to all Shell businesses, upstream and downstream, and now include all operations in the USA. Additionally we now include environmental risks, which must be certified to ISO 14001, or equivalent. Each business prepares an annual Letter of Assurance that these measures are in place and effective. We believe that systematic HSE management systems are a critical aspect in effectively managing HSE. Furthermore, we strive to influence any joint venture partners to develop a systematic HSE management system.

SEPCo was a strong supporter of the MMS SEMP and was an industry leader in the development of API RP 75. We also participated in the performance measure workshops sponsored by MMS and the OOC, where outstanding operators were able to share best practices. Since 1997 when MMS began conducting annual performance reviews, we saw this as an opportunity for dialogue and performance improvement.

API RP 75 details specific components that have to be in place, such as hazard analysis, MOC, etc. The SEPCo HSE MS structure is kept at the element level shown in the hierarchy in the figure below, with the expectation that the controls required are derived from the hazard analysis and are then detailed in the HSE MS. The specifics detailed in API RP 75 are all covered but within each one of the elements as opposed to a separate section. Hence, the SEPCo HSE MS does not look like the structure of API RP 75. It also includes the following, which is not a requirement of SEMP:

- Section on leadership and commitment, and greater reference to behavioral based safety programs,
- Requirement for workforce consultation
- Hazard register with the list of controls in place to manage each HSE hazard (200+ hazards and environmental aspects),
- More extensive reference to hazard analysis tools that address Health, Safety, Security, Social and Environmental aspects of our business,
- HSE critical tasks and accountabilities identified from the hazard analysis (e.g., one HSE critical tasks is to identify shallow gas hazards for subsurface activities,
- Requirement to demonstrate for critical operations that major hazards are being reduced to ALARP, which then links to the HSE cases.

The SEPCo approach is more goal-based than SEMP, appears to cover more hazards, and results in a more extensive inventory of controls.



### Possible Options for Implementing SEMS and Alternative Compliance Program

As outlined in the ANPR, there are a number of approaches MMS could adopt in moving to a SEMS requirement:

1. *Keep the Current Regulatory Program*—the current program is largely based on overarching performance-based regulations supplemented by specific prescriptive safety and environmental regulations and requirements where necessary. The use of API RP 75, while encouraged, is strictly voluntary.
2. *A Mandatory Limited SEMS Approach*—continue the current regulatory regime and add the four critical SEMS elements—hazard analysis, management of change, operating procedures, and mechanical integrity.
3. *A Complete SEMS Approach*—a new performance-based comprehensive safety and environmental management approach. The MMS would develop performance-based regulations that address the 12

elements from API RP 75 and elements similar in nature to those detailed in Section 4 of ISO 14001.

The MMS is considering a SEMS pilot program under which a limited number of companies with outstanding performance records, as demonstrated by incident and compliance data, would manage their operations under a comprehensive SEMS program. For the duration of the pilot program, these companies would operate under a separate regulatory program with far fewer prescriptive requirements. The intention of the pilot program is threefold:

1. Determine whether SEMS should be expanded beyond a voluntary regulatory program;
2. Provide MMS with experience in auditing and using SEMS as a regulatory program vehicle to ensure safe and clean operations; and
3. Determine if SEMS is practical for the oil and gas industry as a whole or only specific companies.

MMS envisions that any company qualifying for the SEMS pilot program would operate according to their SEMS plan and would be relieved from information submissions, certain applications and discrete MMS approval actions except those specifically required by law.

### **SEPCo Recommended Approach**

We support the alternative compliance program (SEMS pilot program) as outlined in the ANPR and would like to discuss with MMS how such a program would work, discuss benefits and drawbacks, and possible next steps. We believe that the pilot program should include companies with a range of size and performance. Until the effectiveness of this approach is determined over a fixed period of time and the industry capability to adapt is fully assessed, we do not recommend that MMS mandate a complete SEMS approach for the industry as a whole. Even at that, we believe that flexibility should be provided in the regulatory regime to allow companies to choose a SEMS approach or to remain under the current regulatory program. However, given the information that MMS has developed on accidents related to the four critical SEMS areas, we feel that a mandatory limited SEMS approach, as defined in option 2 above, may be warranted.

We have included responses to the questions in the ANPR as attached. We remain committed to working with MMS to further improve safety and environmental performance and will be happy to meet with MMS representatives to explain SEPCo's HSE MS approach.

Please call Kent Satterlee at (504) 728-4143 if there are any questions regarding these comments.

Kind regards  
Shell Exploration & Production Company



Christina S. Sistrunk  
Manager, Health, Safety & Environment - EP Americas

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Attachment

<b>MMS Question</b>	<b>SEPCo Response</b>
<p>1. Which of the three identified approaches do you consider most responsive to MMS's state goals and why?</p>	<p>As stated in our general comments, we do not believe it would be prudent for MMS to mandate SEMS plans at this time prior to the full evaluation of a SEMS pilot program. We believe that the best approach is one in which allows both OCS operators and MMS flexibility and, therefore, is a combination of the approaches suggested by MMS. Some operators prefer having highly prescriptive regulations similar to the current regulations. This may be the most efficient system for operators and the regulators to follow. However, some operators would prefer to have a complete, comprehensive performance-based system where by MMS would develop performance based regulations based on API RP 75 and other recommended practices. For many companies, having to develop and implement such a comprehensive performance based program would be overly burdensome, and more attention may be spent trying to develop and implement the program that it actually moves the focus from actual safety concerns to program development and maintenance. We believe that maintaining a voluntary approach to developing SEMS plans is the best and gives each company the maximum flexibility to design a program that meets their corporate culture. At the same time, we support an alternative compliance program (SEMS pilot program) for certain companies. If MMS decides to mandate SEMS programs, we believe that MMS should begin with the four critical SEMS areas outlined in the ANPR.</p>
<p>2. Are there other safety and environmental management systems or programs that MMS should review? Please provide as much detail as possible.</p>	<p>We believe that API RP 75 provides a good basis for an operator to develop a SEMS program. It discusses specific controls rather than management system elements, which is our preference. Also it does not address key areas of workforce involvement and behavioral safety. In addition, we believe ISO 14001-2004 should be reviewed.</p>

<b>MMS Question</b>	<b>SEPCo Response</b>
3. Does the Subpart O model using audits, informal employee interviews, and testing described above, provide a suitable model for verifying the implementation of a performance based safety and management program? Are there alternative approaches to the Subpart O model that the MMS should consider?	We believe the flexibility allowed under the Subpart O regulations is good.
4. Should MMS review the SEMS plan, review and approve the SEMS plan, or have an independent third party verify, review and approve the SEMS plan?	We do not believe that MMS should approve the SEMS plan. We do not believe that MMS has the necessary resources and expertise to review and approve a minimum of one plan for each OCS operator. We don't believe that a third party should "approve" a SEMS plan. If an operator wanted to demonstrate to MMS that they have developed all or part of a plan, they could have a third party certify the plan as meeting the plan objectives and then auditing the plan (e.g., ISO 14001 certification by a third-party verification agent).
5. Should SEMS plans be in addition to the current prescriptive regulations or should the SEMS plan be in lieu of certain prescriptive regulations?	This is a question best left to individual operators to answer. From an Industry standpoint, we believe having flexibility is one of the keys to good regulation. We do support a SEMS pilot program for a limited number of companies to prove-up the effectiveness of performance-based approaches. In the longer term vision, we do not support parallel goal-based and prescriptive regulations
6. What standards should a SEMS plan include to provide consistent and credible approaches to offshore operational safety and environmental performance? --Would these documents, standards or guidelines be domestic or international? --Would these documents, standards, or guidelines be accepted industry best practices or internal company policies and procedures?	Each operator should develop a plan that best fits its operations and corporate culture. The plan should be clearly written and reference as appropriate all documents, standards or guidelines used in its development. Standards should be a mixture of local, company and international standards, whichever are the most current and effective to manage the hazards. We have utilized the local, internal, and international standards in our HSE MS. Reference to external good practices, where it exists, is a very effective and efficient route to managing hazards.
7. What criteria should the MMS use to determine whether an operator has a viable SEMS plan?	We believe SEMS plans should be voluntary. However, if either MMS requires a SEMS plan or if an operator chooses to utilize it as part of an alternative compliance program, then the operator could either self certify that they have a plan or a third party certification could be provided.

<b>MMS Question</b>	<b>SEPCo Response</b>
8. Is API RP 75 a sufficient model for addressing all the factors associated with offshore industry practices? If not, please provide the MMS with your suggestions on an appropriate model.	We believe that API RP 75 is a good starting document on developing a SEMS plan that allows operators to tailor the program to their individual needs. It is based on specific controls as opposed to higher-level management system elements. Our model is at the element level. We have used the OGP approach as a model for our HSE MS. It is preferred.
9. Are there existing programs or initiatives industry is currently using that can further our ability to verify and track environmental compliance, such as ISO 14001:2004, SempCheck, European eco-Management and Audit Scheme, or Global Environmental Management Initiative.	We believe that operators should be given the flexibility to propose the tracking of safety and environmental compliance. Further, we note that USCG and EPA have regulations covering environmental compliance and they have reporting and tracking mechanisms separate from MMS. An effective SEMS plan should include all applicable regulatory objectives. In the case of the EPA NPDES program and general permit, compliance is very prescriptive. There may be an opportunity for MMS to work with EPA to participate in the SEMS pilot program; however, the Clean Water Act contains a much different set of requirements and enforcement than the OCS Lands Act, which is the authorizing statute for MMS's regulations. The industry has had much success working with EPA Region 4 and 6 for Gulf of Mexico operations, and we believe these regions would be very interested in a dialogue that would improve environmental performance. We believe the OOC and API would be interested in helping facilitate this dialogue.
10. How can MMS improve its current regulatory model to incorporate environmental performance measurement systems?	We understand that MMS has an obligation under the OCSLA to protect the environment. An effective SEMS plan should have a strong emphasis on environmental performance and improvement.
11. What are the most appropriate compliance measures that are responsive to our broad environmental performance standards referenced in the "The Regulatory Program" section of the ANPR?	SEPCo's HSE MS includes the following performance measures: <ul style="list-style-type: none"> <li>• Asset integrity scorecards addressing the performance of HSE critical equipment</li> <li>• Loss of containment</li> <li>• The traditional lagging indicators such as TRIR, LTI, etc.</li> <li>• Spills, flaring, energy efficiency, GHG</li> <li>• Leading indicators from BBSM and interventions</li> <li>• Audit action closed out</li> <li>• Occupational illness rate</li> </ul>

<b>MMS Question</b>	<b>SEPCo Response</b>
12. Should MMS consider developing a “pilot program” for outstanding operators?	We support the development of a pilot program for a limited number of companies who would like to participate. The pilot should include companies with a range of HSE performance and size to test effectiveness across a variety of operations. Additionally will it apply to MODUs?
13. What measure(s) should we use to determine who is allowed to participate?	Operators should nominate themselves for the pilot program and state why they should be allowed to participate and should propose how they believe the pilot program should be structured. Additionally, MMS could establish criteria to identify which companies would be eligible (e.g., 1 <sup>st</sup> quartile performance).
14. How should MMS judge prospective “pilot program” applicants? Should an applicant be required to submit a complete SEMS program or plan to MMS for evaluation? Should MMS approve such a program?	See our response to question 13. Also, see our response to question 4. For the pilot program, it may be appropriate for the companies to submit a complete SEMS plan to MMS for evaluation. In lieu of MMS approval, we support third-party certification.
15. Should a pilot program be for a fixed period of time? How long?	See our response to question 13. We recommend that MMS choose a period of time (e.g., five years) to evaluate the effectiveness of the pilot program before it amends the regulations for an industry-wide approach.
16. Should performance issues trigger a premature end to an operator’s participation in a pilot program?	MMS should retain the authority to end the operator’s participation in a pilot program if it determines that safety and/or environmental protection is being compromised.
17. What measures should be considered?	See our response to questions 13.
18. What type of MMS regulatory regime do you recommend for companies in a pilot program?	See our response to question 13. Also, MMS may choose to publish overall objectives for the pilot program that can be developed in a government/industry workshop.
19. What prescriptive regulations and permitting requirements should be excluded from this alternative regulatory program?	See our response to question 13. Companies who choose to participate in the pilot program can propose these.
20. What advantages does a SEMS regulatory approach have for companies compared to prescriptive approach?	We see the potential for an innovative approach to safety and environmental management that reduces compliance burden and improves performance. There may also be the advantage of reduced government enforcement resources needed over the long term. With the constant pressure to reduce government size, there is a need to figure out a way to do more with less.

<b>MMS Question</b>	<b>SEPCo Response</b>
21. What disadvantage does a SEMS regulatory approach have for companies as compared to a prescriptive approach?	Some companies prefer a prescriptive approach because of their corporate culture. A mandatory SEMS approach could be difficult for some companies to implement and not result in an improved performance. MMS should retain flexibility in its regulatory program for this reason.
22. Should the SEMS pilot program include only four elements as mentioned above or should it be for all 12 elements?	See our response to question 1.