



**Marathon
Oil Company**

Daniel F. Riemer
Manager
Crude Oil Marketing & Transportation

5555 San Felipe Road
Houston, TX 77056-2723
Telephone: (713) 296-3722
FAX: (713) 296-4301

June 5, 2007

ATTN. RIN 1010-AD17
VIA ELECTRONIC MAIL rules.comments@mms.gov

Dr. Walter D. Cruickshank, Ph.D
Acting Director
Minerals Management Service
Attn.: Policy & Management Improvement
1849 C Street, NW.
Mail Stop 4230
Washington, DC 20240-0001

**Re: Minerals Management Service, 30 CFR Part 291
Open & Nondiscriminatory Movement of Oil & Gas Required by OCS Lands Act**

Dear Dr. Cruickshank:

On behalf of Marathon Oil Company ("MOC"), we welcome the opportunity to file these comments on the Minerals Management Service (MMS) April 6, 2007, Proposed Rules 30 CFR Part 291 (RIN 1010-AD17) on Open and Nondiscriminatory Movement of Oil and Gas as required by the Outer Continental Shelf Lands Act.

Our comments augment discussions at public meetings held earlier in Houston, Washington DC, and New Orleans. Marathon supports the proposed Rule, but advises caution to ensure that the final Rule protects transporters as much as it does shippers, provides clarity and reasonable certainty with respect to existing FERC regulations, and avoids frivolous complaints and unnecessary administrative costs for all stakeholders. Our comments today address all of these matters.

Background

The MMS published a notice in the Federal Register on April 6, 2007 (30 CFR Part 291) proposing new regulations that would establish a process for a shipper transporting oil or gas production from Federal leases on the Outer Continental Shelf (OCS) to follow if it believes it has been denied open and nondiscriminatory access to pipelines on the OCS. The rule would provide MMS with tools to ensure that pipeline companies provide open and nondiscriminatory access to their pipelines.

MMS has specifically requested comments on various topics in the preamble. Marathon provides the summary comments below to the ten topics requested by MMS.

1. Whether MMS should consider other methods of delivery assurance, e.g., electronic transmission, to satisfy parties' complaint and answer notification requirements.
 - A. Typical delivery methods should be sufficient. Such methods include hand carry, certified mail with receipt requested, or fax copy of signed original.

2. Whether MMS should use a formal complaint resolution method other than that proposed.
 - A. No, the proposed light-handed approach is preferred with a toll-free Hotline to receive allegations of denial of open and nondiscriminatory access, and to allow shippers and transporters to request alternative dispute resolution (ADR). As a point of reference, ADR can be an effective means to resolve disputes so long as the number of parties involved is kept to a minimum, and the MMS facilitator is well versed in offshore oil and gas production, transportation, and marketing areas.
3. Whether MMS's proposed treatment of OCSLA pipelines over which FERC exercises its Natural Gas Act or Interstate Commerce Act jurisdiction is adequate.
 - A. As stated in the proposed rule, MMS presumes that FERC pipelines provide open and nondiscriminatory access. The proposed rule would not create inconsistencies with other agencies' actions. The rule does not change the relationships of the OCS oil and gas leasing program with other agencies. These relationships are encompassed in agreements and memoranda of understanding that would not change with this proposed rule. By deferring to the FERC when FERC has retained and exercised jurisdiction, MMS has structured the proposed rule to ensure that it would not create any inconsistencies with FERC's actions. Thus, if MMS actually defers to FERC in pipeline cases that cross OCSLA and FERC jurisdiction, no double standards, overlapping rules, or conflict of competing agencies should exist that encumber approval processes available to shippers or transporters.
4. Whether MMS should impose a time limit on the filing of complaints.
 - A. Yes, any complaints should be filed under the proposed rule within one (1) year of the alleged denial.
5. Whether an answer in response to a complaint should include specific information other than that required by the proposed rule.
 - A. No, as stated in the proposed rule, an answer should mean a comprehensive written brief stating the legal and factual basis to refute the allegation in the complaint, together with any supporting material such as a copy of the complaint or reference to the MMS docket number, contracts or any affidavits necessary to support factual allegations.
6. Whether the amount of the processing fee is fair, whether the payment by electronic funds transfer is feasible, and what form of identification should be used to submit fees to MMS.
 - A. MMS is proposing that the party filing a formal complaint to pay a nonrefundable processing fee of \$7500 by electronic funds transfer unless payment by check or another alternative method is approved by MMS. To be perfectly candid, a \$7500 complaint fee seems rather minor compared to the magnitude of costs of any alleged open access denial or the costs to be incurred by the responder in providing a comprehensive answer to the allegations. It is recommended that any formal complaint be accompanied by a minimum of \$15,000 in order to avoid any frivolous complaints.

MMS also proposed to recover actual costs if an MMS facilitator was used, but the allocation of such costs among the parties was not well defined. Since the ADR outcome is proposed as non-binding, it is recommended that MMS's actual costs be allocated simply by the number of parties in the dispute.

7. Whether the proposed processing fees will materially affect the filing of complaints and whether the value of using the complaints process to complainants, transporters, and others is fairly presented.
 - A. The proposed processing fees are not believed to materially affect the filing of complaints. In addition, so long as the complaints are not frivolous in nature, the response costs to transporters are not excessive, and the process is not encumbered with overlapping agency jurisdiction and conflict (e.g. MMS vs. FERC), the value of the MMS complaints process should be equitable to all parties.
8. Whether processing fee waiver and reduction provisions should be retained.
 - A. The processing fee waiver and reduction provisions should be eliminated to avoid frivolous complaints being filed and the costs of transporters to provide comprehensive answers in response.
9. Whether MMS should obtain information from persons who are not parties to a complaint.
 - A. No, if persons are not employed by or contracted by parties involved in a complaint, such persons should not be allowed to provide information to MMS as such information could not be validated or disputed without due diligence by all parties.
10. Whether MMS should automatically stay each decision pending an appeal to the IBLA.
 - A. No, a stay to a decision following a lengthy complaint process defeats the purpose of fair and reasonable process itself. If any party believes that the complaint process was not fair and reasonable, such party would ready itself to file an appeal immediately after the decision was rendered. An automatic stay simply leads to further delays, costs, discontent, and a process that recycles without any closure.

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We urge the MMS to carefully consider our comments and welcome any further questions you might have to yield rules that are fair and reasonable to all parties concerned.

Very truly yours,



Daniel F. Riemer
Manager – Crude Oil Marketing & Transportation
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