NORTH SLOPE BOROUGH
PLANNING DEPARTMENT

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Department of Interior
Minerals Management Service (MMS)
Attention: Regulations and Standards Branch (RSB)
381 Elden Street, MS-4024
Herndon, Virgina 20170-4817
703-787-1546 (fax)
rules.comments@mms.gov

Re: Proposed Amendments to MMS Pipeline Regulations
30 CFR Part 250, 253, 254, 256
Oil and Gas and Sulfur Operations in the OCS – Pipelines and Pipeline Rights-of-Way
Regulation Identifier Number 1010-AD11

Dear Minerals Management Service,

The North Slope Borough (NSB) has reviewed the proposed amendments to the Minerals Management Service (MMS) regulations at Title 30 Code of Federal Regulations, Parts 250, 253, 254, and 256 for Oil and Gas Operations in the Outer Continental Shelf (OCS). This letter provides the NSB's comments on the proposed changes.

The NSB has a stake in the outcome of these proposed pipeline regulation changes, since the NSB is the local government authority for the northern part of Alaska. Our comments represent the people and the concerns of our communities. The vast majority of the North Slope's people are Inupiat Eskimos. They reside in eight villages, with populations ranging from 139 to 3,469. In total, the region includes 6,290 residents, of which over 70 percent are Inupiat. The Inupiat have inhabited the Arctic for thousands of years, traditionally following animal migrations and subsisting on whale, caribou, walrus, seal, birds, fish and other marine, terrestrial, and riverine animal and plant species. Our history, culture and subsistence way of life are directly tied to the marine environment, and oil and gas operations in the OCS pose a significant threat to our subsistence and cultural way of life.

Extensive oil and gas operations are located within the North Slope Borough both on and offshore. The NSB has consistently opposed oil and gas developments in the OCS. While the NSB continues to oppose OCS oil and gas development, we recognize that the federal government does not share this view and continues to move forward with OCS development in the Beaufort and Chukchi Seas despite our strong and continuous opposition. The NSB comments on this regulation should not, in any manner, be considered support for OCS operations in the Beaufort and Chukchi Seas. Rather, our comments are only intended to improve the regulations at 30 CFR Part 250 in the event oil and gas operations in the OCS do occur.

Overall, we support MMS's effort to consolidate numerous conditions of approval and notices to lessees into one comprehensive set of OCS pipeline regulations. We also support MMS's effort to update OCS pipeline regulations to include new technology, updated engineering standards and to require an integrity management program. However, we are concerned that these regulations reflect the MMS's experience in the Gulf of Mexico and do not incorporate sufficient operational requirements for arctic operations, and operations taking place in subsistence use areas. Below, we provide specific recommendations for improving the regulations for the Alaska Region.

Subsistence Use Protection

The proposed regulations at §250.1001 state that a pipeline operator must design, construct, operate, maintain, inspect and decommission all OCS pipelines in a manner that "does not unreasonably interfere with other uses of the OCS, including those involved in national security or defense, and does not cause undue or serious harm or damage to the human, marine or coastal environment." The Alaska OCS pipelines regulations should included a specific provision requiring pipeline operators to not interfere with subsistence activities. The regulations at §250.1001 should include the requirement for pipeline operators to identify subsistence use activities in the area, and a demonstration of how subsistence resources impacts will be avoided or mitigated. Subpart J, §250.1023 and §250.1040 should include a requirement for operators to develop a construction and support vessel and aircraft plan that does not impact our subsistence harvest.

Proposed regulations at §250.1026 include protections for biological and archaeological resources, but should be expanded to include subsistence resource protections. Each pipeline project should include an examination of the subsistence use and socio-economic impacts of the pipeline project.

Pipeline Leak Detection

The preamble to the proposed rule (p. 56445) states MMS will require leak detection systems if MMS determines they are necessary. Leak detection systems should be installed on all Alaska OCS pipelines as a critical oil spill detection and prevention tool; this should not be a discretionary requirement. The regulations should be revised to require mandatory installation of redundant leak detection methods. Redundant systems should include at least one system which monitors the volumetric mass balance of the system, and another that detects hydrocarbon vapor leaks. The regulations should specify the system accuracy requirements, testing and monitoring requirements. Redundant leak detection systems of this nature are installed on the Northstar pipeline, and serve as a minimum standard for all future pipeline systems.

Information on the pipeline leak detection should be required in sections §250.1019, §250.1024 §250.1031 and §250.1071.

Pipeline Inspections

The preamble to the proposed rule (p. 56446) states the RS may require ultrasonic tests inspections and in-line inspections if specific conditions indicate the need for them. Ultrasonic tests inspections and in-line inspections ("smart pigging") should be required on all Alaska OCS pipelines as a critical oil spill prevention tool; this should not be a discretionary requirement. The Department of Transportation (DOT) Pipeline Integrity Management Program requires these tests for similar piping; MMS should be equally as stringent.

Information on the pipeline inspections should be required in sections §250.1024 and §250.1031.

Proposed regulations at sections §250.1103 do not specify the required frequencies for pipeline inspections. These inspections should be conducted at least annually. The regulations should specify what constitutes an arctic storm and the magnitude of an earthquake that triggers an immediate inspection requirement.

Offshore Water Pollution
The proposed regulations at sections §250.1022 and §250.1023 and §250.1024 contemplate offshore discharges as an acceptable construction and operation practice. The NSB is opposed to offshore discharge of pollutants into the Beaufort and Chukchi Seas. The regulations should not allow disposal of pollutants into the offshore waters.

Arctic Design, Construction and Operation
The proposed regulations at sections 250.1018-24 and §250.1031, and §250.1044 should require the pipeline operator to use registered Arctic Engineers in the design, construction and operation of arctic pipelines, and require full consideration of arctic temperatures, ice (e.g. ice gouging, straddle scour), earthquakes, winds and sea states.

Offshore Oil Spills
Consistent with the Oil Pollution Act of 1990, proposed regulations at sections §250.1028 should require the pipeline operator to provide an oil spill plan that demonstrate the capability to clean-up a subsea pipeline leak, under ice.

The proposed regulations at Subpart J, §250.1036 states MMS <u>may</u> require a pipeline operator to design the pipeline in sections to reduce the worst-case discharge volume. Please change "may" to "will".

The pipeline regulations should include specific requirements for installing valves and tankage to ensure that in the event of a leak, the size of the pipeline leak can be controlled by limiting hydrocarbon entry into the pipeline, and by having tankage available to immediately evacuate the pipeline. This should be required in Subpart J, §250.1018, §250.1020, §250.1022, §250.1023, §250.1031 and §250.1079.

Proposed regulations at Subpart J, §250.1011 only require monthly pipeline monitoring. This is insufficient. The pipeline route should be monitored on a daily basis, and by continuous flow monitoring and leak detection systems.

CZM
NSB Legal Department – See p. 56470 (right column). MMS states that the pipeline operator must go through a CZM review, but states that the Secretary of Commerce could override a CZM objection and allow the project to move forward. Is this legal? Should you oppose this? (see Subpart J, §250.1011 – What can I do if an affected state objects to my ROW pipeline application)

Pipeline Removal
NSB Policy Call – 250.1107 allows pipelines to be decommissioned in place – and never removed – if MMS approves. The regulations require the pipeline to be cleaned –so no oil remains. Does the NSB want these pipelines to eventually be completely removed – or can you live with this provision to abandon them in place?

Please contact me at (907) 852-0320 if you have any questions on NSB's recommendations or would like to set up a meeting to discuss them further. The NSB requests MMS ADEC provide the NSB a final copy of the regulations with an explanation of how the NSB recommendations were addressed.

Sincerely,

Johnny Aiken
North Slope Borough
Planning Department Director

Cc: Edward Itta, NSB Mayor
Taqulik Hepa, NSB Wildlife Department Director
Karla Kolash, Special Assistant to the NSB Mayor
Gordon Brower, NSB Planning Department Permitting Supervisor
Bessie O'Rourke, NSB Attorney
John Goll, MMS Alaska Regional Director

Bcc: Susan Harvey, Harvey Consulting, LLC.