

September 15, 2009

Department of the Interior
Minerals Management Service (MS 4024)
Attn: Rules Processing Team (Comments)
381 Elden Street
Herndon, Virginia 20170-4817

Re: Safety and Environmental Management Systems for Outer Continental Shelf Oil and Gas Operations, RIN 1010-AD15
Federal Register Vol. 74, No.115, June 17, 2009

Ladies and Gentlemen:

El Paso E&P Company, L.P. (El Paso) appreciates the opportunity to provide written comments on the proposed rule, Safety and Environmental Management Systems (SEMS) for Outer Continental Shelf (OCS) Oil and Gas Operations, 1010-AD15, to amend regulations associated with oil and gas and other mineral operations as published in the June 17, 2009 Federal Register.

El Paso acknowledges Minerals Management Service (MMS) has conducted a significant review of OCS safety issues and that MMS has determined that a mandatory SEMS program is necessary. Using plain language, MMS has developed the proposed rule to address concerns that the agency has determined exist. El Paso however does not reach the same conclusion given the actual safety record of the OCS when compared to other similar industries engaged in land-based oil and gas exploration and production operations.

El Paso appreciates that MMS crafted the proposed rule with the expectation that the rule would address major concerns the agency has with respect to OCS safety. However, El Paso notes that the rule will not specifically address root causes and thus will in all likelihood be challenged to achieve the benefits that the agency believes will occur.

El Paso believes the proposed rule is broadly targeted at three areas: safety, reliability and environmental performance. El Paso agrees these areas are important to industry, our customers, the general public, and regulators. With this in mind, El Paso requests MMS to specifically identify where industry is falling short of expectations in these areas and why the MMS has not included this information in the preamble discussion of the proposed rule.

El Paso notes that unlike recent rule making efforts, this effort clearly attempts to prescribe rigid new reporting, documentation and record keeping requirements that are significantly greater than current requirements and which, we believe will do little to address the human behavior issues

raised by the MMS review. This proposed action is a major, paperwork-intensive, rule that will significantly and adversely impact our business, both operationally and financially, while bringing little benefit towards improving safety of offshore operations. In addition to the unnecessary burden to industry, it will create an additional unwarranted burden to the limited regional MMS staff that will require additional inspector/auditor training and increased workload demands.

El Paso notes that the proposed new rule defines a greater, more proactive role by MMS in operations activities and requires a significant increase in the amount and technical detail of information that operators would be required to develop, record, and report without a strong driver for the additional information. El Paso is concerned that this expanded MMS role will have a negative impact on critical cycle times in the ongoing development of the OCS.

El Paso fully endorses the comments that have been filed on behalf of industry by the Offshore Operators Committee (OOC) and American Petroleum Institute (API).

El Paso has the following additional comments:

- 1) The U.S. offshore industry has an excellent safety record; while continuous improvement is necessary, the proposed regulations are not justified given the available incident data and trends.
- 2) The MMS opinion that the "root cause analysis" points to the need for implementation of four proposed SEMS elements is not supported by the agency's incident analysis.
- 3) The job safety analysis/job hazard analysis is the only significant portion of the proposed rule that could affect the behavioral change (which is more appropriately identified as the root cause of the majority of incidents reviewed).
- 4) We strongly disagree that a mandated program, as proposed, is needed. The majority of the comments that were received on the Advance Notice of Proposed Rulemaking (ANPR), issued May 22, 2006, came from organizations that do not operate on the U.S. OCS. Comments received from OOC urged MMS to keep SEMS voluntary.

Further, the multiple foreign government agencies that commented in support of additional regulation on the U.S. OCS do not have mandated programs such as the one being proposed, yet were given equal weight to those organizations that represent companies producing over 90% of the offshore oil and natural gas on the U.S. OCS.

- 5) We believe that MMS has significantly underestimated the cost of developing and/or revising existing company safety and environmental management programs to be consistent with the proposed rule together with the major new documentation and reporting burden that the proposed rule imposes on offshore operators. The MMS assumption that operators could purchase a template from a Safety Management vendor or consultant, thus gaining compliance with the proposed rule, reinforces the concern that

the proposed rule is an exercise in additional paperwork and not an enhancement to safety of personnel, operations or protection of the environment. In addition, the MMS assumption that additional money to "customize" the template would not be necessary in order to comply ultimately minimizes the intent of the proposed rule to enhance compliance in safety related areas by operators/lessees.

- 6) MMS should reconsider the need for the proposed rule and reevaluate the cost/benefit of mandating a program that, as recently as 2003, was determined by the agency to be performing well as a voluntary program.
- 7) MMS conducted extensive research of operators in all "defined" categories, i.e., both those that had already implemented Safety and Environmental Management Plans (SEMP) on a voluntary basis and those that have not. The operators with SEMPs in place have voluntarily provided MMS with annual statistical information on performance using proposed MMS-131 form.

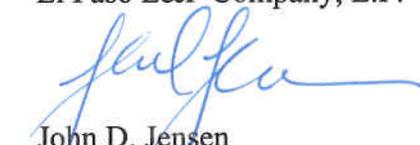
El Paso suggests that MMS use an alternative compliance approach, i.e., those operator/lessees that have established SEMPs (identified by MMS as 56% or 70 of the 130 OCS operators) and are within the MMS standard of compliance as recognized in the annual Safe Award program would be exempt from the proposed rule. El Paso further suggests that MMS incorporate OOC proposed wording to enhance existing regulations at 30 CFR 250.107 such that those operators/lessees that have performed less than MMS expectations will be monitored as "poor performers" (as defined by MMS).

The limited comment period provided by MMS for industry's response to such a significant formal rulemaking did not allow El Paso to develop detailed comments on the various parts of the proposed rule and it is recommended that further discussions with industry be carried out prior to any final rulemaking on the issue. As such, El Paso recommends that the current regulatory process be suspended and that any future SEMS regulations only be considered following discussions with the regulated community regarding the need and potential impacts of various regulatory approaches.

If you have any questions please feel free to contact our Regulatory Manager Beth Atwood at 713-420-6288 or e-mail Beth.Atwood@elpaso.com.

Very truly yours,

El Paso E&P Company, L.P.



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