

14 September 2009

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

Re: RIN 1010-AD 15; SEMS
FR Vol. 74, No. 115 6-17-09

Ladies and Gentlemen:

Petrobras America Inc. (PAI) appreciates this opportunity to provide written comments on the subject proposed rule to amend regulations associated with Outer Continental Shelf (OCS) oil and gas and other mineral operations as published in the June 17, 2009 Federal Register.

PAI believes that MMS conducted a significant review of the OCS safety issues and determined that a mandatory SEMS program is necessary and using plain language developed a rule to address concerns that the agency has determined to exist. PAI however does not reach the same conclusion given the actual safety record of the OCS when compared to other industries and specifically similar industries engaged in oil and gas exploration and production.

PAI appreciates that MMS wrote the proposed rule with the expectation that the rule would address major concerns that the agency has in OCS safety, however PAI notes that the prescriptive rule will not specifically address root causes and will in all likelihood fail to achieve the benefits that the agency believes will occur.

PAI believes the proposed rule is broadly targeted at three critical areas: safety, reliability, and environmental performance. PAI agrees these areas are important to the industry, our customers, the general public, and regulators. With this in mind, PAI would like to know specifically where MMS believes the 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.

PAI notes that unlike recent rule making efforts, this effort clearly attempts to prescribe rigid new reporting, documentation and record keeping requirements far above current levels and will do little to address the human behavior issues raised by the MMS review. This proposed action is a major, paperwork-intensive, rulemaking that will significantly impact our business, both operationally and financially, and will bring little benefit towards improving safety of offshore

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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.

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

PAI fully endorses the comments that have been filed on behalf of industry by the Offshore Operators Committee (OOC) and the American Petroleum Institute (API). PAI has the following additional comments:

- 1) The US offshore industry has an excellent safety record; while continuous improvement is needed, 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 requiring the 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 that 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 handful of comments that were received on the ANPRM in support of a MMS regulatory action came from organizations that do not operate on the US OCS. Further, the multiple foreign government agencies that commented in support of additional regulation do not have mandated programs such as the one being proposed, yet were given equal weight to those organizations that represent companies that produce 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. We also believe that MMS has dramatically underestimated the major new documentation and reporting burden that the proposed rule imposes on offshore operators.
- 6) MMS should reconsider the need for the proposed rule and reevaluate the cost/benefits of mandating a program that, as recently as 2003, was determined by the agency to be performing well as a voluntary program.

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The limited comment period provided by MMS for industry's response to such a significant formal rulemaking did not allow PAI 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, PAI 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.

Should you have any questions or if we may be of assistance, please contact me directly at 713.808.2881 or by e-mail to GRoland@petrobras-usa.com.

Sincerely,
Petrobras America Inc.



Gregory D. Roland
Regulatory Compliance Area Manager