

**LEGAL LANGUAGE SERVICES**

**TRANSCRIPTION OF AUDIO**

**DESIGNATED AS: 806960**

*Session 1*

Doug Slitor: ...about ready. So we'll begin here, if you can settle down. Well, my name is Doug Slitor; I'm with the office of Offshore Regulatory Programs in Herndon, Virginia. I'd like to introduce our other people. I know many of you know them, David Nedorostek who was the principal author - principal contact on the SEMS Rule, and Joe Levine. Welcome. We seem to have a little more interest in the final Rule than we do the ANPR, so I guess we've got to put out something there of tremendous interest. A few housekeeping items before we get going. The restrooms, if you haven't found them, they're to the right out these side doors, and to the left out the back doors; not expecting any fire drills so if we do hear something it's probably the real McCoy. And what we're supposed to do is exit, go down the escalators to the first floor, and out the side doors. Let's see, we have - there's over 500 of you here, and we've asked for questions about the Rule so we could focus discussion, and we received over 170 questions so we have a couple hundred slides to roll through. We have microphones set up. I know there's more questions that are swirling around than what you've actually submitted and we intend to get to those, if not today, through your submittals. But in the interest of being fair to all the folks that did take the time to submit questions, the way we're going to try to run this today is to put the question up, put the answer out there. If you have a question on our response, we'd like you to come up to the microphone and ask a question about the response. If you have a different permutation or a what if scenario associated with that, we'd appreciate it if we could circle back around at the end of this, and we'll go kind of by element so we can

address those more specific questions that might take us down all kinds of rabbit trails. We're fearful that if we just open up the dialogue that we won't make it through all of the questions that we do have, and we'd like to cover these first, and then circle back. So if that's acceptable, we'll do that. We'll probably try to take a couple breaks, probably somewhere around the hour 15 to hour 30 mark, allow everybody to get up and stretch just a bit, short breaks ten minutes and we will start right back at the ten minute mark, because there is a lot to do and a lot to cover. We all appreciate you folks coming here. We know there's a tremendous amount of interest in this. It's a wide ranging full-scope Rule that can be interpreted myriad ways, and we know that the devil is in the details. And to the best of our ability, we're going to try to give you some guidance on your questions, and help you understand how we view the Rule and how - to the degree that we can, view compliance with the Rule. But it's going to be a learning experience for both of us, to be quite frank. I think it is so wide in scope, and it is the softer side of the business. It's where the cracks in the floor are, so it's not - it's not numeric things to attend to, it's more of how you manage. In general, there's three groups of slides that we have, one set an introductory set just to orient us all, kind of talk about the Rule a little bit, some of the additional provisions of the Rule. And then we took the questions and we tried to group them by element, but there's a number of general questions and very good ones that pertain to the whole concept rather than perhaps specific elements. So all three of us are going to participate and lead the discussions., We have from nine o'clock until two o'clock here, and

we intend to plow through it, and try to answer as many of your questions as we can. With that said, all of you know that the point of this slide is that it's been around a long time. We're talking about 20 years that RP 75 has been out there, and it's been revised a couple times, but not significantly. Key things, it's mandatory. It's no longer voluntary. And that is obviously a huge distinction and it's the reason everyone is here. You, the lessee, need to have a SEMS plan developed, implemented by November 15th of this coming year. We will not approve the plan, it is not for us to approve. It is for you to develop. It is for you to use. It's for you to manage your operations. What we will be looking for is how you comply with your own plan, and how your plan complies with all the elements and intent of RP 75, plus Subpart S. It does not replace any existing regulations or standards, they're still in effect. And it does not override any other agency's regulations such as Coast Guard. But there are areas where they intersect, they overlap, they're gray. And we will try to draw those distinctions as best we can. But the key element, are without a doubt, is management commitment, it is - it is a culture change. It's a difference in the way you do business. This rule is going to slow people down, and I think that that can't be over emphasized. Start yesterday, don't put it off any longer, there's a lot to do. If you've been involved in this for 20 years, you certainly have a great head start and maybe the amount of effort that you put into this is really in the details and how you organize yourself for audits and what have you. In terms of what it applies to, facilities, all oil and gas facilities. We have a facility definition, it's in the Rule, Fixed, MODUs,

FPS, FPSOs, etc. Everything needs to be covered and all different phases of your operations. They need to be accounted for. You need to have those plans in place. Thirteen elements, we put that up there because for years we all talked about it as a 12-element SEMS program and ignored that first element, that management element. And that's the one that cannot be ignored. That's the one that is critical to the success. You've got to have your management on board and supporting this. Otherwise, it's a document that's on the shelf, looks good, but it's not in practice, it will fall apart. There might be evidence here or there, but comprehensively unless your management must be behind it, understand it, understand the amount of effort that it takes or it's not going to be a workable thing. There's the 13. Probably one of the biggest additions beyond the RP 75 is a little more specificity regarding JSAs and that came out in our public meeting, 2009, fall of 2009. We had kind of commingled the terms JHAs and JSAs but I think we came to appreciate the distinction that many of you felt was necessary. And so the outgrowth of that, are JSAs and our expectations with respect to JSAs which are detailed in the Rule. To us, it's one of the very key things to a successful plan is this step. It's so easy to assume you know how to do all these jobs. They're repetitious in a way and before long you know you're taking short cuts that you know maybe you shouldn't be taking. So it's going to slow things down, but I think it slows it down for a good reason. Contractor management. And basically the point of this slide is your contractors do not need an SEMS plan. You, as an operator need a SEMS plan, and you need to ensure that your contractors have

safe work practices, principles that comport with your SEMS plan, that support your SEMS plan, that are in line with your SEMS plan. So it is your responsibility to ensure that your contractors have those in place, and you know this is going to be a collegial thing., Many contractors will adopt SEMS to make it easier and make themselves more marketable. But we are not regulating the contractor. We're regulating the lessee, the lessee operator. And a key point is you must document your agreement with them. It's not enough to say hey you know we have the SEMS plan, have you read it. We want you to go through the steps of signing an agreement that they understand, they're in support of, and that they will comply with as it pertains to their activities. With respect to managing contractors, you need to perform periodic. What does that mean? There are all kinds of thoughts on that, and it's up to you. Whatever your plan designates as an acceptable period of time to make sure that your contractors can perform their duties is what you design in your plan. What we would look for as a regulator is, are you doing those evaluations, as you said you would do them, and can these contractors perform their jobs. There's some specifics on documentation of your contractor, the personnel injury and illness log, and that has to do with the MMS 131 form. The 131 form refers to the voluntary performance measures that had been going on for close to 20 years. We formalized it. That is good data to for us to monitor the health of SEMS offshore, and also for you folks to see how you're doing relative to the balance of the industry. A contractor is anyone who's performing work for you, except domestic housekeeping, food

services, those that are involved really in that domestic type of activity. But everybody else, they are your contractors; they need to be included in your SEMS plan as part of this whole safety management scheme. Training. We do have Sub O, but SEMS needs to go beyond that. So Sub O is just a part of your training element, a big part. But it includes more than production and drilling. You need to - in that second bullet, establish and implement a program that ensures that your contractors are conducting their job safely and in a manner that protects themselves and the environment. Audit Requirements. You have designated and qualified personnel and independent third parties. And there's definitions of both of those in the Rule. The audit itself, two years from initial implementation, and that is two years from November 15th. We'll probably have more guidance out there as to how we will interact in those initial audits. We certainly plan on participating in audits, conducting our own, and we'll get into that notification later. But it is all 13 elements, every single one that needs to be part of your audit program. You will be required to submit that audit plan to BOEMRE 30 days before the audit occurs. And we reserve the right to change that audit plan. RP 75 specifies that you should conduct an audit on 15% of your facilities, it's easy to game that to do your best facilities and come away looking very good. But we will be viewing your audit plan to ensure that you have a representative cross-section. We'll be looking at facilities and their compliance issues, accident history, make sure that you know we're looking at areas that are troublesome. It's not going to do you any good to just look at the A students.

We have to look at those that are having some problems, and why they're having problems. And as mentioned, we may participate. The qualifications of your designated and qualified personnel. SEMS education and experience is kind of a nebulous concept. We want you to demonstrate that they have done this type of thing before. Offshore HSC is just their technical capabilities, previous experience with regulations, and the most important thing is to avoid conflicts of interest. In other words, your I3P or your DQP cannot both develop and audit your SEMS program. We're looking for objectivity here. Audit reports. You must submit your audit report within 30 days of the completion of the audit. It has to detail your observations. You have to identify any deficiencies, and summarize your conclusions about the audit. Your deficiencies need to be addressed in a corrective action plan, and submitted to BOEMRE 30 days after you submit your audit report. Various triggers. None of these are probably a big surprise. Poor performance, poor compliance would trigger an audit on behalf of BOEMRE. We'd be looking at various metrics to see if there are problems. Accident panel investigations, 2010s with a SEMS element as perhaps one of the route causes could also be a trigger; a monthly operator compliance report, internal report that we use to track troublesome facilities that seem to be having compliance issues. If it is of such a nature, we may use that as a trigger for the audit. And an element of randomness as well. We may conduct one just totally on a random basis. If we direct an audit, it would be that the operator must hire an independent third party, specified in that section of the 250 Subpart S Regs. And you will be

responsible for paying all costs. We're going to be directing audits based upon those previous concerns, legitimate concerns. The random audit— would be different. That would not be something we would just say it's a random audit, and you need an independent third party, and you must pay. That random audit will be ours, we'll be doing that. Let's see, if BOEMRE conducts an audit in lieu of the I3P, we will provide the operator report within 30 days of the audit completion. And the operator must submit a corrective action plan again within 30 days following that. We get a little bit different than RP 75 regarding records and documentation. It's a little more frequent. We increased the frequency of the audit from four years to three years. Hence the six years is having basically two cycles of audit on hand. Management of change provisions, two years. Logs for two years, you can read those, I don't want to spend time on that. Important though you know that - if there's an audit it's just not a pile of paper, you know, if it's a pile of paper that you're giving us, then there's a pile of problems somewhere nearby. So you know the expectation is that it's going to be that your data is organized and retrievable. And if necessary, you know a bridging document. IMany of you have may have other safety management systems. I know this is probably one of the questions swirling around, I have my system, it doesn't look exactly like RP 75, that's fine. But RP 75 plus these additional provisions in Subpart S are what you need to comply with, and you need to have a bridging document that will direct an auditor to those elements. So it can be constructed in the way that you have been using it, that you find is best for your company, but as far

as compliance with the Rule, you will need to have some bridging document that directs the auditor to those elements of RP 75 and the provisions in Subpart S. There could be announced or unannounced audits. Announced obviously giving you some time to know that we're coming to conduct an audit, and gather appropriate paperwork. An unannounced one might be more of the nature of something that is a partial audit; it might be focused on one particular element. This might be BOEMRE landing on a facility and asking for your last two months of MOCs. Something of that nature, where we are trying to gain insight into your management scheme, to see if you are truly managing this, if you are doing what you say you are doing. It may lead to a further, more comprehensive audit, or it may be a great experience for both of us. I've got it here, this is what we do. This is how we do business. And that's what we're hoping for. Enforcement. Again, the full scope of enforcement actions are possible with decreasing likelihood. But all of them are possible. INCs, we've developed some PINCs to speak to auditing. We are not entirely done with those. But those will be eventually available to you on our website. Civil penalties are always a possibility based upon threat or actual harm to the human/marine environment. And probation and disqualification procedures are also a possibility. Disqualification is a more remote possibility but nevertheless, it's probably a tool that will be used when appropriate. There's a couple of slides here –that have helped shape our approach to this Rule. First, the fact that RP 75 has been around for 20 years. There's been surveys on participation and these surveys have indicated that

over those years, and again 10, 15 years ago, the participation was huge. This is voluntarily submitted, this was part of a contract that a group of the industry associations led to gain a greater understanding of where the industry was with RP 75. So you know we had the lion's share of activity being covered by RP 75 by those that submitted that information. Our voluntary performance measures program over more recent years has subsided. Participation declined to, I think, 56% participation and we don't know obviously if that is just a lack of willingness to submit documents that they have things, or if they just have not - are not using RP 75. So it's difficult to say to what extent the actual practice of using RP 75 is. But the point of these two slides is that it's been out there and you folks have been using it. So compliance with this, while filled with questions, is something that you're not as far away from as some would like us to believe. , This has been going on, it's a recommended practice. You have been doing it. Again, thank you for submitting questions, it certainly has shed light on a number of things, and it helped to get us talking about the various answers to these and what is appropriate. We're looking to be fair in this Rule, we know that it is kind of a moving target, because everybody does business differently. But everybody is trying to accomplish the same things. So we appreciate that there are different permutations. As far as these next set of questions, we have three microphones set up, and what we'd like to do to get through them is if you have a question about our response, then by all means we want to settle that right away. But if - again, if there is some "What if" scenarios you want to discuss then we want to take

those at the end. So if you have a question about how we responded to this question, raise your hand, come on up to the microphone. We'd like to know you know who you are, so your name, your company, and also a job title would help us understand where you're coming from in your question. So come on up to the mic, ask your questions, and then hopefully we can get through a lot of these, because I just know that a lot of you will have more and more questions that are very important to us. And if we do not get to them, we want you to submit them to us, to David Nedorostek, his contact information is available, and we will answer those questions, and also put those up on the website. So you'll have kind of a beginnings of a guidebook on how we view the Rule, and how we view compliance with the Rule.

These are the general questions. **I'm greatly concerned the statement in the final Rule will be interpreted as giving carte blanche for lift boats**,.Basically, they were saying that lift boats would not be covered by an SEMS plan, and that would be their understanding. We include lift boats, if they are conducting operations under BOEMRE's jurisdiction. That is in essence what all that is about. It doesn't affect Coast Guard's jurisdiction. You still need to comply with Coast Guard regulations. But when you're conducting operations from any facility including lift boats that are under our jurisdiction, it needs to be accounted for in your SEMS plan. Spoke to this one already, if you have some variation of RP 75 that you've had for a while even - what was the balance of this - they use ISO 14,001 and OSAS 18,001

certified, they don't want to rewrite their system, and it's already certified and working for us, is that acceptable, basically? It has to meet the requirements of RP 75 plus the more specific requirements in Subpart S. Nothing prohibits you from using a quality management plan, but it needs to be covering RP 75 and that is really in addition to RP 75, and you'd need a bridging document.

**Right now we get re-certified for ISO 14,001 and 18,001 every three years. Would a copy of those certification audits performed by a third party meet the audit requirement of SEMS?** No, it won't. You need to audit according to RP 75 and the provisions of Subpart S. And it gives the citations of those sections. SEMS states that it also applies to MODUs, since we don't own those facilities, and they work for multiple companies, it is difficult to dictate much to them about how to run their programs. **What exactly should we be doing with our drilling contractors to comply with SEMS?** Your SEMS has to address that operation on a MODU, and all the 13 elements. We do have our MOU as many or all of you are aware with Coast Guard which delineates responsibilities, but your compliance with SEMS means that it does not affect the jurisdiction of Coast Guard. You need to ensure that your contractor on the MODU has safe work practices and principles that meet your SEMS program which in turn meets RP 75 plus Subpart S. You just have to ensure that. Likely your contractor for the MODU will be developing plans that are in alignment with SEMS because they will need the work, and they will assist, they will facilitate that compliance. Who is the "You" in 250.1900? As mentioned in the summary,

operators must develop and implement an SEMS program of their OCS operations. It's the lessee, the owner, holder of operating rights, it's defined in there. It does not include the contractor. **A MODU that is contracted by an operator does not have to have an SEMS; however, the BOEMRE operator must conduct a hazard analysis on it.** That is correct. You can accept your MODUs hazards analysis, contractor's hazards analysis and if you do so, you just need to acknowledge that. You don't have to conduct your own, unless you want to. You just have to be comfortable that their hazards analysis is adequate and is meeting the needs of your operations. A MODU that is owned and operated by an operator, must have an SEMS program - whoops, is that the same one? Oh, the operator must have the SEMS program and not the MODU. That is correct; it is the operator's responsibility to have them. The operator of a fixed facility must have an SEMS program, that's correct. Again, just kind of general questions that have straight forward answers. **Was the intent to use the Coast Guard BOEMRE MOAs to describe in detail the operations and activities under the jurisdiction of BOEMRE?** Yes. That is how we did it. We've had a lot of discussions with Coast Guard about - they have their SMS plan, and during the development of this final Rule, we talked to them repeatedly about the intersection of these two and they were concerned that our requirements were overriding their requirements, but we've reassured them that that is not the case, we believe that the language in the Rule reflects that. You're still responsible to both agencies for their jurisdictional requirements. **Does the SEMS program only**

**need to address items in MOAs where BOEMRE is listed as the lead agency?** Again, correct, Subpart S only applies to OCS activities under our jurisdiction, and in accordance with 1900, and does not affect the safety and other matters under Coast Guard jurisdiction. **What are we going to do to audit construction activities?** All applicable SEMS elements. Initial construction of a facility in accordance with provisions of Subpart I, onsite facility construction activities, repairs, modifications, decommissioning, pipe lay operations, crane operations, and it's probably not an exhaustive list, but it gives you an idea that it's construction activities, all of them. **Please clarify design and construction requirements on MODUs, SPARs, TLP. BOEMRE could audit applicable SEMS elements that apply to construction activity such as, but not limited to, again Subpart I, sand blasting, painting, on site modifications, welding, electrical. Operators can use multiple contractors for doing work. Would each contractor have to bridge with the operator's SEMS?** That is correct. Your contractors have to acknowledge, understand, support in a documented fashion that they are complying with your SEMS program. RP 75 refers to safety hazards, significant safety hazards, environmental impacts and significant environmental impacts. **Can BOEMRE define what constitutes a significant safety hazard and significant environmental impact?** Well, we certainly talked about this a good bit. And we've erred on the side of comprehensive. You know all safety hazards, environmental impacts need to be addressed. You are in a position to define significant and critical, another

term that is really in - within your flexibility to define those terms, and how you will deal with those elements of your plan. **Does BOEMRE expect operators to perform safety integrity level and safety integrity function in accordance with IEC?** No, we don't define the type of hazards analysis that you need to use or conduct. You need to evaluate risk and make that determination and there's a variety of hazard analysis techniques and methodologies, you just need to state what you're using and that - have a documentation supporting that and make provisions to account for those hazards that you've identified, no matter what method you are using. **Will DOT pipeline platforms be impacted by or required to comply with SEMS regulations now or in the future?** Jurisdictionally, we have some unusual situations for sure and they aren't without their challenges and gray areas. But if a DOI pipeline comes aboard a DOT platform, the operator must address that pipeline in their SEMS plan. But this does not release the operator from complying with other agencies' requirements under their jurisdiction. We may cover the flip side of this where a DOT pipeline comes onto a DOI platform, or there's equipment from other jurisdictions, and what do you do about that? It is our point of view on this that a safety management plan is comprehensive, it's a system. It is a safety environmental management system. So it behooves you to account for that pipeline to the degree that you can on your facility. If there is some non-compliance issue with a piece of equipment on your facility that is under the jurisdiction of DOT, we would not write a non-compliance enforcement action on that piece of equipment. But it

is in the intent of the Rule, that you manage this comprehensively and account for that device in your safety management program and deal with it in using the same safe work practices and oversight and whatever maintenance you're responsible for. But as far as some kind of non-compliance issue that is someone else's jurisdiction, and not ours, we just urge you to not try to cut things out that could affect the safety on your platform. So it's sort of a soft area, but at this point is how we are looking at that. **BOEMRE notes that more than 50% of operators have no program in place; deadline is short for those with no programs. Will BOEMRE grant extensions for operators who cannot make the deadline?** Well, that's not quite accurate, the 50% comment as I referred to earlier is the number of responses we received for performance measures, voluntary performance measures. So it's not necessarily reflective of the number of operators that are using safety management programs. But as far as extensions, no, we have no intention of granting extensions. **Since many operators do not have programs to modify but must build new programs and the deadline is much shorter than OSHA's PSM granted for onshore development of SEMS does BOEMRE have priorities for elements the operator of SEMS must develop in their program?** The SEMS program is integrated, it's comprehensive. We believe that you need to account for all elements. We're not looking for a piece meal kind of compliance strategy here; it would just be opening the door to all kinds of problems. So it's your responsibility to have a comprehensive program that addresses all 13 elements plus Subpart S. **If an**

**operator cannot make deadlines for program implementation, will all those facilities be shut in?** There's a possibility that facilities could be shut in. It is not going to be a knee-jerk reaction on our part. We'll review those on a case by case basis. You know if there is some legitimate safety concern associated with the lack of particular SEMS plan, and the conditions are such that we think it is a more judicious move to shut the facility in, then that could be an action that we would take. It is certainly nothing that we take lightly, and it would be in consultation, obviously with the operator to make sure everything is completely understood, but that would be on a case by case basis. **Can a suspension of production be granted until an operator gets their program in place?** No. We will not be granting SOPs for these. **Will leases be in jeopardy will off production?** No, you must have an SEMS program developed and implemented by 11/15. I'm not sure we answered that correctly. I think if you're meaning if you aren't producing, will the lack of diligence in production jeopardize your lease? If that's the nature of the question, no, I don't think that's how we were looking at that. I apologize, I don't think we - it's looks like we copied and pasted one too many times. **Is SEMS needed or required for these situations? We have several wells that are not currently producing, and they're on a P & A schedule for late 11 or 12 in platforms with or without processing equipment, with no current or future production planned.** The simple answer is all of your existing facilities need to be accounted for in their SEMS plan, all 13 elements, all the provisions, regardless of whether your intent is to take it out,

ow weeks or months after the Rule takes effect. **Given the findings of the Presidential Commission that many of the decisions that have contributed to Macondo incident were made onshore, what proportion of the resources that BOEMRE dedicates to oversight of the SEMS regs will be devoted to examining management practices onshore?** Obviously, kind of a difficult question to answer; again, the answer is its comprehensive program, there's onshore components, there's offshore components, we will be applying resources to both of those. But it's not like we are targeting onshore management decision-making as some kind of priority exercise on our part. We're looking at the A to Z of your SEMS program. **Does BOEMRE anticipate developing a checklist to assess compliance with the SEMS regs and RP 75, will this be made available to industry like the PINC List?**

Yes, we will develop a checklist, but it is not going to be made available to the public. The SEMS PINCs will be available and will be able to be found on the website. Now, this is the should-must issue. **In Section 12.3 of 75 this would preclude some facilities from being covered in subsequent follow-up audits, even if the criteria for percentage of facilities covered was otherwise met. Also causes difficulty in the reading of the management of change provisions in Section 4.3 of RP 75.** I have to look at the answer before I know what the question is. You know it's important obviously for the success of your SEMS program that you evaluate all your facilities over the course of time. And then we know that - I need a little help here, I can't see what we're doing. I'm not quite sure what the question is. **Does this really**

**mean that the phrase "should not" in RP 75 has to be read as "must not"?**

Joe Levine: I think maybe we did not properly address this answer, but you know the question like Doug just said was should not in 75 does that equate to must not. And if you follow the history of that issue - can you hear in the back?

All: No.

Joe Levine: Yeah, I don't - is that better?

All: Yes.

Joe Levine: Yeah, I don't - I guess we did not properly answer that question. But the question was if you've been following the history of the should and must issue over the last few months, should equates with a must, it's written in this Subpart S, so the question was if RP 75 says "I should not do something", does that mean "must not" and our answer though it's not written up there is a yes. But you - before you just focus in on one sentence in RP 75 as must not, I think you really need to look at the whole document and decide if you're still meeting the overall intent of the program. But whoever asked that question, the answer is yes. The should not equates to a must not, and like I said, I think we cut and pasted some - a wrong answer in here. [Do you want me to go or do you want to come back? Okay]

Doug Slitor: Section 1.2.2 of RP 75 states "suitably trained and qualified personnel are employed to carry out all aspects of the safety and environmental management program." **Is this the basis for BOEMRE's previous assertion, presumed by David Nedorostek that hazards analyses must be conducted by**

**qualified personnel? Are there specific criteria that BOEMRE will apply to determine if a person is qualified to conduct hazards analyses? If so, are these based on those particular attributes, and how must the qualification be documented, if at all? Please confirm this.** Section 1.2.2 of 75 includes the requirement that individuals involved in an operator's SEMS program be suitably trained and knowledgeable in this program including, but not limited to hazards analysis. The HA section of 35 RP 75 states "personal forming HA must be experienced on how to conduct the analysis and be familiar with the specifics of the facility being analyzed and its associated operators." **Will BOEMRE more specifically identify those requirements that are more stringent in the regs than in RP 75?** No, 1900 states that if there are any conflicts between the requirements of this Subpart and RP 75 as specified in 250.198, you must follow the requirements of this Subpart. We will not author a list identifying the more stringent requirements. **In a response to a question and the comments, the response indicated the lift boats are under jurisdiction of Coast Guard and not covered by this reg. We understand this to mean that operations conducted on or from non-MODU vessels are not subject to an operator's SEMS. Please confirm this.** Again, when a vessel, like a lift boat is conducting operations that are covered under our jurisdiction, then you need to have that in your SEMS plan. And again with all due respect to Coast Guard's jurisdiction and their requirements, those are above and beyond what this section is requiring you to do. **The company is a leaseholder but does not operate any**

**facilities; we use a contract operator to operate our facilities. Can the SEMS of the contractor contract operators, satisfy the regulatory requirement that the operator is required to have an SEMS in place?** It could, but it's still your responsibility to ensure that that contractor's SEMS meets the requirements and provisions of RP 75 and Subpart S. They very well may develop an SEMS program that is right in line with this, meets it to a T, and if you've done your analysis and you agree with that, and it's true, then it's great. But it is your responsibility; you can't just hand it off to a contractor to do the SEMS and not pay any attention. Your management needs to understand your SEMS program. And if that is more or less developed by a contractor, then you need to understand it to the point that you know that it complies with the Rule, because you're the one on the hook. It's not the contractor. **Under what condition does SEMS apply to a MODU?** Again, simple answer when they're conducting operations under our jurisdiction, including these areas, but not limited to those. **When will the PINCs and/or audit protocols for SEMS be available?** PINC List by November 15th, audit protocols will not be made available. **Please provide clarifications regarding the SEMS II Rule, any content, requirements and timing on implementation.** SEMS II Rule is a - obviously a proposed Rule, you'll have ample time to comment on it, in the draft stage it contains elements that were not included in the final Rule, that some folks in management wanted in there. But it was not advised to that. So there will be some provisions that you'll have an opportunity to comment on, and we certainly urge you to do so, and

inform us of the advantages or disadvantages, problems, issues, all of them. As far as a guesstimate on when they will come out, it's a front burner issue, so I'm not - it's difficult to - to guess on these things, but I would think that the draft Rule will probably be out by summer. This is probably a fairly accurate time period. **Are drilling contractors required to abide by all 13 elements of SEMS or only by those elements respective to their businesses?** They're not required to develop or implement an SEMS. Again, it's the operator that has hired that contractor, you're responsible for the SEMS program and ensuring that your contractors, regardless of what their activity is, their practices speak to your program, support your program, are in line with it, the communication is flowing back and forth and everybody understands what they need to do in terms of safety management. Dave, take over.

David Nedorostek: **The next question is about our contract workers, companies required to have an SEMS in place, or can you operate under the host company SEMS?** Basically, contract workers are required to have - again have an SEMS program, but the operator is responsible for ensuring that the SEMS program is compiled - or complied with during - during operations covered under an SEMS, drilling, production, construction, well work over, well servicing, well completion. **Can a third party assessment of an SEMS be regarded as an audit?** Any independent third part must meet the requirements listed in 30 CFR 250.1926, an assessment of SEMS can be considered an audit only if such an assessment meets all the criteria in RP 75 in the final SEMS Rule. **Will API RP 75 will be updated to include**

**changes made by the 30 CFR Part 250, Subpart S?** RP 75 is an API authored standards. It is BOEMRE's understanding that API updates are standard in accordance with internal procedures, and you have to contact API to know when they update 75 again. We're not sure. **Will the regulation be updated on a scheduled basis?** BOEMRE is in the process of developing a proposed second SEMS Rule, to be published sometime in the summer, we're hoping. And on a regular basis BOEMRE updates its regulations as needed. API RP 75 has numerous references to specifications, standards, codes, practices, etc. They're not included in 250.198. **Are these documents now also incorporated by reference?** Well the answer to that is no. BOEMRE only enforces standards specifically discussed in 30 CFR 250.198 and the so-called "second tier" documents are not included in that regulation. From the definition section of the SEMS Rule designated qualified personnel, DQP, means employees, not contractors. They're knowledgeable of your program and have actual work experience in training and implementing and auditing of an SEMS or similar program in offshore oil and gas environment. **What if the corporate compliance manager is a contract employee?** Well Section 1903 states that the DQP does not include contractors. In this situation you have to hire an independent third part to conduct your audit. **How would a platform rig be treated under an SEMS?** Well if the platform rig is involved in the operations covered by your SEMS which is drilling, production, I mean drilling work over completion, well servicing, then the rig needs to be addressing an SEMS program. **Does the definition of facility in**

**250.1911 apply to all sections of Subpart S? If so, what are BOEMRE's expectations for each operator who contracts a MODU? Does BOEMRE expect each operator to fully develop and implement all of the elements in an SEMS program for a facility he or she neither owns nor operates? If not, what are the expectations?** Well, the answer is yes. The definition of facility applies for all of Subpart S, and MODUs are covered under this Rule, and the operator is required to develop a completed SEMS plan that considers all the elements, all 13 elements. Again, is it acceptable for the operator to adopt sections of the contractor's safety program but they have - as long as it meets the expectations of the Rule and they have a documentation agreement between the operator and the contractor. **IADC's HSE Case Guidelines for MODUs provide guidance on developing a facility level hazard analysis for a MODU. Does BOEMRE recognize this Guideline as providing appropriate guidance?** We recognize it, but we don't have any requirement for it. If the operator and the owner of the MODU wants to use this as guidance to do their hazard analysis and the elements of SEMS, that's fine. Again it has to meet the requirements of Subpart S and RP 75. **What standards or guidelines does BOEMRE consider appropriate for the facility level hazard analysis for the well being drilled by a MODU?** In regards to a hazard analysis addressing the drilling a well on a MODU, the operator needs to show that all hazards encountered during the drilling operation have been identified through an appropriate HA technique. The HA should not only address the MODU based equipment and operations, but also

the risk of encountering a blowout, a kick, a spill, a fire that's related to the well being drilled. **What are BOEMRE's expectations for covering coastal and marine environmental impacts in each of the SEMS elements covered under the rulemaking?** Our expectation is that they would be protected at all times from any and all activities conducted under your SEMS. If your activities have associated lease stipulations related to protecting the coastal and marine environment then those should be addressed in your SEMS, for example, avoidance of habitats and shunting of drillings cutting near coral reefs. And in general, conducting safe operations and implementing the proper housekeeping procedures will lead to protection of the environment. Now, we get into Section 1909, this is about management's responsibilities for developing and implementing an SEMS program. And the first question is, **What is the intent of 250.1909(g)? If operators only need to cover operations and activities under the jurisdiction of BOEMRE, why does this section state that they need to ensure that facilities are designed, constructed, maintained, monitored, and operated in a manner compatible with applicable industry codes, consensus standards, and generally accepted practice as well as in compliance with all applicable governmental regulations?** Well, the intent of 30 CFR 250.1909(g) is to clarify that the compliance with the provisions of Subpart S does not relieve any company from their responsibilities to comply with the regulations, standards, codes and generally accepted practices of other federal, state or local agencies including other BOEMRE requirements. **What does the word**

**"facility" mean in 250.1909(h)?** As stated in Section 1911, the definition of "facility" means all offshore structures permanently or temporarily attached to the seabed, and again it's your MODUs, your FPSs, your FPSOs, TLPs, SPARs, and that it's being used for exploration, development, production and transportation of activities for oil and gas or sulphur from areas leased in the OCS. Also facilities cover DOI regulated pipelines. **Define management.** Thought it's not defined in Subpart S, management means a team of individuals who have the day-to-day responsibilities of overseeing or providing instructions to a company. They hold specific executive powers conferred onto them with and by authority of the Board of Directors and/or the shareholders. Additional guidance on the meaning and responsibilities of the management can be found in Section 1 of API RP 75, the Third Edition. Now, we're going to get into Safety and Environment Information, Section 1910. Okay, the first question is, **What information is required in Section 1910?** Well in accordance with API RP 75 this information includes the process design information, which is your process flow diagrams, your upper and lower limits, which is your temperature, pressure, flow, composition, energy/material balance. Then it goes into talking about the mechanical and facility design information, your piping, your electrical, your relief systems, fire protection systems, well control systems, materials or construction equipment and piping specs, corrosion prevention systems and general adherence to the API RP 14J. **Isn't SEMS for operators not individual facilities?** An SEMS plan addresses how operators manage all of their

facilities and associated activities. An operator's SEMS must address all operations, drilling, production, work over, completion, construction on OCS facilities, fixed, floater, TLP, MODUs, etc. under BOEMRE's jurisdiction.

**Does BOEMRE expect operators to have a minimum set of safety and environmental information?** Yes, as described in Section 2 of RP 75, the intent of this element is to provide a basis for developing and implementing other SEMS elements. By compiling relevant and accurate information on your processes, and design information, an operator will be able to develop a more realistic SEMS which must be retained for the life of the facility. RP 14J should provide an acceptable level of safety when used in conjunction with referenced industry codes, practices and standards such as stated in 30 CFR 198 which must be retained for the life of the facility. **What if they do not have the items listed in RP 75?** If BOEMRE determines that your SEMS program is not in compliance with RP 75 and Subpart S, again, like Doug said it earlier this morning, that we could issue an INC, assess civil penalties, do probation or disqualify the operator. **What are BOEMRE's expectation for covering coastal and marine environment impacts in each of the SEMS elements covered under the rulemaking? Can you give examples?** Well, BOEMRE's expectation is that all coastal and marine environments will be protected at all times from any and all activities conducted under your SEMS. An example of this would be how you will address lease stipulations under your SEMS. **If there are no piping and instrument diagrams, PI&Ds, for a facility will it be enough to use**

**process flow diagram, PFDs?** Yes, BOEMRE would accept either one for a facility. Now, we're going to talk about 1911 which is Hazard Analysis.

**Section 1911 pertains to hazard analysis requirements and states that "the analysis must be updated when an internal audit is conducted to ensure that it is consistent with the current operations on your facility." I wanted to verify that the intention was for the hazard analysis required in the 1911 to be updated at the same interval as the audit of SEMS elements specified in Section 1920 as "... within two years of the initial implementation of the SEMS program and at least once every three years thereafter."** No, that is that not the intention of the hazard analysis. In accordance with 30 CFR 1911, the HA needs to be updated with an audit is conducted to ensure hazard analysis is consistent with the current operations on the facility. Additionally, Section 3.4 of RP 75 states that the HA is required to be revised/updated when one or more of the SEMS elements, such as management change or operating procedures requires the HA to be revised or modified. **I am curious about the SEMS as it applies to older shelf properties. Many of the older facilities have never had an HA or if conducted might not be reflective of current processing operations. Do I understand that we will have to conduct an HA on all 3,500 or so facilities if we don't have one on that file somewhere? And we have one year to do that?** Well, the answer is yes, 30 CFR 1911 states that each operator must perform an initial HA on each facility on or before November 15th, 2011. Now, again, the operator can use an existing hazard analysis as long as it

reflects the complexity of the current operations being conducted and must identify, evaluate, and manage the hazards involved in the operation. And 1911 also states that a single hazard analysis for nearly identical well jackets, single well caissons or other structures may be applied to all such facilities within a field, after verifying that the site specific deviations are addressed.

**When the owner sells a facility, can the new owner use the existing hazard analysis of the facility or are they required to perform a new hazard**

**analysis?** The new facility owner can use an existing HA only if it's accurate and shows that any and all change - all facility modifications or changes. **Can**

**an operator use 14C checklist as part of their hazard analysis?** Well yes,

there is nothing in Subpart S saying that - prevents the operator from using

14C checklist as part of their production equipment. API, paragraph 14C

checklist is only one technique available in Subpart S for use in conducting a

HA. SEMS does not specific the type of HA to conduct. The particular HA

technique used should be determined based on the type of facility, level of

activity, type of production, manned versus unmanned facility, etc. **What**

**level of detail is required for the hazard analysis?** SEMS does not specify

the level of detail to be included in a HA. The operation must specify the

level of detail based on a risk of the operation being conducted, type of

facility and equipment on the facility. API RP 75 references a variety of

methodologies which can be utilized when conducting an HA, such as 14C,

14J and in RP 75 it references an appendix in the back, C references one and

two. They're some type of research papers. **Does BOEMRE expect to see**

**detailed safety and environmental hazard assessments for each facility?**

Yes, a detailed HA is required for each facility unless the operator has determined that the facilities are near identical, locations with clusters of structurally interconnected platforms could be analyzed together. **What form should an initial HA report take?** BOEMRE does not specify the type of format to be utilized for preparing the initial HA report. RP 75 Section 3.6 includes detailed requirements for this report. **Could BOEMRE confirm the review cycle for hazard analysis?** Well per RP 75, the HA must be reviewed periodically and updated. It states in there for high priority facilities every five years, and for low priority every ten years. And the factors listed in Section 3.3.1 of RP 75 and changes in the facility under Section 4 of the Management of Change should be consider in establishing your review cycles for your hazard analysis. RP 75 refers to a safety hazard, significant safety hazards, environmental impacts and significant environmental impacts. **Can BOEMRE define what constitutes a significant safety hazard and significant environmental impact?** No, BOEMRE will not define these terms. The operator needs to define these terms in their SEMS program. Is a HAZOP plus 14C and/or 14J review sufficient? As already stated, SEMS does not specify the level of detail to use in a HA or the type of HA to be used. The operator must specify the level of detail and the type of HA they will use for a given facility based on the risk of the operation being conducted. **The regulations require that JSA be kept on site for 30 days, retained for two years, and make available to BOEMRE upon request. There does**

**not appear to be a corresponding requirement regarding the facility level hazard analyses. Does BOEMRE believe the general authority in 250.1924 allows it to deemed access to these analysis - analyses? If so, does BOEMRE anticipate routinely reviewing such analyses? Yes.**

According to RP 75 Section 3.6 the HA needs to be kept on file for the life of the facility. You must make the HA available to BOEMRE upon request as stated in 1911(a). These documents will be reviewed routinely during a

BOEMRE conducted audit. **Does 1911(a) apply to pipe lay barges or other such construction equipment, they aren't in the list?** Well yes, 1911 states

that permanently or attached - or temporarily attached to the seabed and

further states that the HA must be appropriate to the complexity of the

operation and must identify, evaluate and manage the hazards involved in the

operation. **For MODUs, can the operator accept the MODU owner's**

**hazard analysis to meet the requirements of 1911? If so, what sort of**

**documentation must be provided to indicate such acceptance?** Well the

answer is yes, an operator may adopt their contractor's MODU HA as their

own. However, this must be a documented and signed agreement between

both parties to this effect. It is the operator's responsibility to ensure

compliance with RE 75 and Subpart S. **Is there a general list of hazards**

**that BOEMRE expects to be addressed in the facility level hazard**

**analyses? What acceptance criteria will BOEMRE apply to mitigation**

**measures?** BOEMRE does not have a general list of hazards, but guidance

can be found under 1911 and RP 75, Section 3 that the operator must address

in the facility level hazard analysis. The operator must conduct all hazard analysis to address all risk on the facility as well as mitigate the risk to an acceptable level. **Confirm the review cycle for an HA, RP 75 mentions five and ten years but SEMS asks for the HA review cycle to be in line with the audit cycle, which is three years.** Correct. RP 75, Section 3.4 defines the five and ten year review cycle requirement, however, the Subpart S requires the HA to be updated upon completion of an audit if deficiencies were identified and at any time a new hazard is introduced to the facility or your operations. **What is BOEMRE's expectation for what triggers an internal audit and updating a facility hazard analysis?** Again, as per RP 75, 3.4, management should establish a program for updating hazard analysis. Factors to consider for performing a hazard analysis are located in Section 3.3.1 of RP 75. Now, we're talking about JSAs, this is Section 1911(b). **And the first question is for JSAs in 1911(b)(3) states the supervisor of the person in charge of the task must approve the JSA prior to commencement of the work. Is the supervisor interpreted as personnel at the management level? Office personnel? Or is this basically the highest ranking person on the offshore facility, the foreman, the operator?** 30 CFR 1911(b)(3) states that the supervisor of the person in charge of the task must approve the JSA. The actual supervisor responsible for approving the JSA will be determined by the company based on their structure and organization. **Is it acceptable for the supervisor of the person in charge of a task to approve the JSA electronically through email or a web-based**

**program?** Yes, the supervisor or the PIC as determined by the company can approve the JSA electronically, through email, by a web-based program or in writing. It is up to the operator. **The supervisor or the PIC as determined by the company must be on site to personally inspect the area and sign off on the JSA prior to work commence. Does the approval require a signature? If so, is an electronic signature acceptable?** Again, JSAs must be signed off by - signed off after a visual onsite inspection by the PIC - by the PIC is conducted. An electronic signature is acceptable. **Should a JSA be conducted for each general operation or the immediate task at hand?** The operator needs to develop and implement a task level JSA for all activities addressed in their SEMS programs in accordance with 30 CFR 250.1911(b). Next, we're going to talk about management of change. **And the first question is for an MOC in Section 1912(a)(3) states that you must develop and implement a management of change procedure for personnel changes. Is this still interpreted as organizational changes in personnel and operations or supervisory personnel only?** The answer is, changes in personnel which will trigger a MOC will include but are not limited to company mergers/acquisitions, substitution in personnel, elimination of a position, and contractor or subcontractor personnel changes. 1912(a)(3) takes precedence over RP 75 Section 4.3. Because in RP 75, I think it says that you don't have to do them for these certain items. **Will an MOC be required for a new MSDS, material safety data sheet?** No, 30 CFR 1912(a) addresses MOC procedures. The procedure would include adding a new MSDS for any

new chemical introduced to the facility. However, if a new material is brought onto the facility, then a MOC is required. **How does BOEMRE justify excluding replacement in kind from Management of Change, 1912(b), when such replacement could mean that equipment so replaced would not conform to the latest equipment standards incorporated by reference into BOEMRE or Coast Guard regulations or the regulatory standards themselves? For example, replacement of a crane manufactured in 1980 with an in kind crane salvaged from a facility being decommissioned.** In accordance with 1912(b) an operator does not need an MOC for a replacement in kind if the equipment meets or exceeds the current regulatory requirements and standards. It is also incumbent upon the operator to use BAST, which is the Best and Safest Technology, as per 30 CFR 107(c). **What is BOEMRE's definition of "Personnel change"?** As stated in 1912(a)(3) changes in personnel which will trigger a MOC include but are not limited to company mergers/acquisitions, substitution in personnel, elimination of a position, contractor or subcontractor personnel changes. And again the Rule takes precedence over RP 75, Section 4.3. Joe, do you want to do some?

Joe Levine: Alright. We'll continue on with Operating Procedures. I guess everybody is saving their questions for later. So it looks like we're going to have quite a bit of time later on to discuss questions. **What is raw materials in our Subpart S regulation?** Basically, what we're looking for is how you address raw materials like additives, mud additives, cement additives, steels for tubulars.

And we're looking for how you control the quality of this kind of material that you bring out to the field. I mean the manufacturer has a process, so we're looking to see that the operator is paying attention to that process and getting high quality product out there to use offshore. You know this was in the Rule, Coastal and Marine Environment. We went into OCSLA and we came up with these summaries of the definitions, kind of confusing, but to kind of paraphrase it. Marine environment is all areas and zones of the ocean, all the biological resources in the ocean. Coastal marine is everything from the beach, the lagoons out to the coastal zone, the 200 miles. So the point is that you're operating on the OCS, what you're doing has impacts both further offshore and onshore as well, the beach area, if you know we're asked about how this is to be dealt with, you know if you conduct operations on the facility or MODU safely and watch what you're doing, you know you should not have any significant impacts on the coastal marine environment. But the point here is just to show that SEMS applies not to just the MODU or facility, but the entire area. Let me leave it to you folks, do you want a break, or do you want to keep going you know on the questions. We're like okay, if you want a break, let me - nah, no break, no, no. Alright, how about what, 15 - 15 minutes, we'll be back and we'll start here.

**[End of recording]**