

**Additional API, OOC, NOIA, IPAA, IADC, OMSA, IMCA Comments to the SEMS 2 Proposed Rule –
RIN 1010-AD 73, Revisions to Safety and Environmental Management Systems (SEMS), 76 FR 56683**

30 CFR 250	Title	Description	Comment	Recommendations
1903	Definitions	<i>'Mobile Offshore Drilling Unit or MODU means a vessel capable of engaging in drilling well workover, well completion and well servicing operations for exploring or exploiting subsea oil, gas or other mineral resources.'</i>	<p>The proposed definition differs significantly from the definition used by the US Coast Guard, and referenced in the MMS / USCG Memorandum of Understanding:</p> <p><i>MODU – vessels capable of engaging in drilling operations for exploring or exploiting subsea oil, gas or other mineral resources.</i></p> <p>Vessels other than MODUs have the capability to undertake well servicing operations. Many of these may not have drilling capability or a derrick to provide drilling services, so will not be engaged in drilling operations.</p> <p>We are concerned that this different definition could result in vessels without 'MODU' classification being prevented from undertaking well servicing operations.</p>	<p>As defined in the MOU – vessels capable of engaging in exploring or exploiting subsea oil, gas, or other mineral resources. (09/2004 MOU) and as defined in RP 75 Appendix D.</p>
1903 and 105	Definitions	<i>Management means a team of individuals who have the day-to-day responsibilities for overseeing operations conducted on a facility or providing instruction to operational personnel, including but not limited to employees and contractors working on a facility or in the company's onshore offices.</i>	<p>Recommend removal of the definition of "Management" The proposed definition of "Management" is ambiguous and potentially overbroad. For example, the proposed definition arguably extends to those persons who provide training to operational personnel, even where those trainers otherwise have no managerial duties or responsibilities. Also, it is unclear whether the last clause of the definition - "... including but not limited to..." - refers to "operational personnel" or "team of individuals." Also, the term "company" is undefined.</p>	<p>Delete definition of management. Suggest changing "management" to "you as the operator" in the proposed language. 30 CFR 250.105 defines "You" as follows: <i>You</i> means a lessee, the owner or holder of operating rights, a designated operator or agent of the lessee(s), a pipeline right-of-way holder, or a State lessee granted a right-of-use and easement.</p> <p>at the following citations in the proposed regulations: 30 CFR 1932 (a, b, d, & e)</p>
1911 (b) and (c)	What criteria for Hazards Analysis must	<i>Job Safety Analysis</i>	<p>Details about who conducts and approves JSAs should be determined by the operator. There are many effective methods for conducting these analyses.</p> <p>The proposed rule appears to require the operator to provide training to those</p>	<p>(b) - Recommend revising the proposed third sentence to read as follows:</p> <p>"The JSA must include all personnel involved</p>

	<p>my SEMS program meet?</p>		<p>personnel (employees and contractors) within 30 days of employment and not less than once every 12 months thereafter. The rule further indicates that the operator must verify that contractors have received training and that they understand the training. These two requirements seem to be in conflict as to who is responsible for training the contractor employees.</p>	<p>with the activity being conducted.”</p> <p>Recommend revising paragraphs (c) and (d) to read as follows:</p> <p>“(c) As part of your SEMS program you must provide training to your employees who perform activities on the OCS that are regulated under BOEMRE/BSEE jurisdiction on the methods of recognizing and identifying hazards, and the development and implementation of JSAs, prior to executing any JSA and not less than once every 12 months thereafter. (d) You must verify that contractors have been trained in methods of recognizing and identifying hazards, and the development and implementation of JSAs, prior to the contractor performing work.</p>
<p>1911 (b) (3)</p>	<p>What criteria for Hazards Analysis must my SEMS program meet?</p>	<p><i>‘The person onsite designated by the operator as the person in charge of the facility must approve and sign the JSA.’</i></p>	<p>There is the possibility that the “immediate supervisor of the crew conducting work” may be the “person onsite designated by the operator as the person in charge of the facility.” As long as the agency recognizes this issue and is OK with it, then operators may not have any issues with the proposed language.</p> <p>Additionally, the “immediate supervisor” may not be a “supervisor”. This person may be the person leading work; however, this person is not in a supervisory role/capacity and may even be a contractor employee.</p> <hr/> <p>JSA meetings are not always conducted where all parties can participate in the same face-to-face meeting where all participants can sign the JSA form. Some “meetings” may take place via radio communications between crews on the workboats and crews on the facilities. Having all participants present will require the unnecessary transfer of personnel which will introduce unnecessary risks just to get a signature on the form. The agency should consider removing the requirement of having all personnel participating in the JSA signing the JSA form.</p>	<p>Recommend revising 1911(b)(2) to read as follows:</p> <p>The <u>person in charge of the job</u> must conduct the JSA, sign the JSA, and ensure that all personnel participating in the job are identified on the JSA”.</p> <hr/> <p>(b)(3) - Recommend that BOEMRE/BSEE allow electronic signature of JSAs.</p>

			<p>For those facilities that are under the USCG jurisdiction, the person onsite in charge (PIC) of the facility (MOU, FPSO, MODU, etc) may not be the person designated by the operator in charge of the activity on the facility. It is more important to understand the methods of recognizing and identifying hazards, and the development and implementation of JSAs when conducting the JSA than it is to require a second signature. The agency should focus more on verification of the training of personnel conducting the JSA rather than focusing on the approval signatures of the JSA. Therefore, the agency should consider removing the requirement for having a second signature on the JSAs.</p>	
1915	What criteria for training must be in my SEMS program		<p>The proposed regulation contains provisions that limit the operation of the regulation to “activities that are regulated under BOEMRE/BSEE jurisdiction.”</p> <p>This wording creates considerable ambiguity with respect to those matters where the Coast Guard also has regulatory authority.</p> <p>A system/sub-system breakdown of what is regulated under BOEMRE/BSEEs jurisdiction on MODUs can be found in Annex 1 of MMS/USCG MOA: OCS-01. In order to reduce the ambiguity of the present and proposed provisions of the regulations, Industry asks for specific confirmation that Job Safety Analyses (JSAs) are not required under 30 CFR subpart S for the following systems and sub-systems on MODUs that are identified in Annex 1 of MMS/USCG MOA: OCS-01:</p>	<p>Regulation should address cross jurisdictional dilemma.</p> <p>Clarification on jurisdictional boundaries relative to SEMS implementation is required and recommended be done with appropriate vetting in accordance with the rulemaking process</p>

1920 (a)	What are the auditing requirements for my SEMS program?	<i>'You must have your SEMS program audited by an independent third party according to the requirements of this subpart and API RP 75.'</i>	Under this proposed subsection, the independent third party auditor is required to submit the audit report to BOEMRE/BSEE "within 30 days of the audit completion date." Likewise, under proposed §250.1926(e), the auditor is required to submit the audit report to BOEMRE/BSEE and the operator. However, under existing §250.1920(d), the operator is required to submit its plan for addressing deficiencies "within 30 days of completion of the audit." These existing and proposed sections, when read together, indicate that the operator may not receive a copy of the audit report until the end of the time period in which it is allowed to submit its plan for addressing deficiencies. In effect, any delay in providing the audit report would cut short the time available to prepare a plan for addressing deficiencies. The operator should be allowed time to both submit comments (<i>see</i> comment above) on the audit report and to develop a proper plan for correcting any deficiencies.	(c) - Recommend adding a sentence to the end of proposed subsection (c) to read as follows: " You may submit comments on the audit report to BOEMRE/BSEE within 30 days after receiving the audit report from the independent third party auditor pursuant to §250.1926(e), and BOEMRE/BSEE will consider those comments prior to accepting or rejecting the audit report. "
1924	How will BOEMRE/BSEE determine if my SEMS program is effective?	<i>'I3P Auditors'</i>	See comments in cover letter	See comments in cover letter
1926	What qualifications must an independent third party auditor meet?	<i>'I3P Auditors'</i>	See comments in cover letter	<p>The agency should maintain a list of qualified auditors in place so that companies can easily identify approved I3P.</p> <hr/> <p>We recommend conditioning this conflict-of-interest restriction with a minimum period of time during which an independent third party is ineligible to conduct a SEMS audit. For example, the second sentence of the proposed subsection</p>

				<p>could be revised to read as follows: “If an independent third party has developed and/or maintained your SEMS program within the prior two years, then that person and/or its subsidiaries cannot audit your SEMS program.”</p> <hr/> <p>Recommend allowing for an extension of time in which to conduct the audit if an operator has to submit a new nomination.</p> <hr/> <p>Recommend that the last sentence be revised to read as follows: “BOEMRE/BSEE will notify the operator if BOEMRE/BSEE accepts or rejects the audit report within 30 days after BOEMRE/BSEE receives the audit report from the independent third party auditor. If BOEMRE/BSEE rejects the audit report, the rejection notice shall state the reasons for the rejection and allow the operator and the independent third party auditor to amend the audit. In the event that BOEMRE/BSEE rejects the audit, the operator and independent third party auditor shall have 30 days from date of the rejection notification to submit a revised audit report to BOEMRE/BSEE that addresses the reasons for the rejection. BOEMRE/BSEE shall have 30 days after receiving the revised audit report to notify the operator that it either accepts or rejects the revised audit report.”</p> <hr/> <p>Industry recommends that paragraph (c) be revised to read as follows:</p> <p style="padding-left: 40px;">(c) Within 7 calendar days of receiving your nomination and request for approval of your auditor, BOEMRE/BSEE will approve or deny your nomination. If the nomination is</p>
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				denied, the reason(s) for denial will be given.
1928	What are my recordkeeping and documentation requirements?	<i>'recordkeeping on the facility for 30 days'</i>	<p>Not all facilities have provisions to maintain records. Therefore, language is recommended to allow records to be maintained at the nearest field office where such records are maintained.</p> <p>For Employee Participation (paragraph g) – this proposed language reads as if the operator has not developed and has not implemented a SEMS. This proposed rule follows the SEMS final rule of October 2010 (with effective date of November 15, 2011). Most companies have already developed and have implemented or are continuing to implement their SEMS programs. For the existing program, operators cannot create records that were not required as part of RP 75 programs already in place.</p> <p>We agree that appropriate employees should participate in the development and implementation of the SEMS revisions.</p>	<p>Recommend revising paragraph (f) of the proposed rule to read –</p> <p>For Stop Work Authority (SWA), you must document that your employees and contractors received training on SWA. You must retain documentation of these orientations for 30 days on the facility or at the nearest field office where records are maintained.</p> <hr/> <p>Recommend deleting paragraph (g) of the proposed rule</p>
1930 (d)			1930(d) "...line item in all JSA drills" appears to be a typographical error. We assume that this was to read "in all JSAs" or "all completed JSA forms"	(d) - Recommend removing the word "drill" at the end of proposes subsection (d) and making JSA plural.
1930 (e)	What must be included in my SEMS program for 'Stop Work Authority (SWA)?'	<i>'Additionally a review of the SWA Policy must be completed as part of all safety meetings.'</i>	Use of the terms "policy" and "program" appear to be inconsistent with the language in 1930(a).	This proposed subsection refers to "SWA Policy and Program" and "SWA Policy." These terms should be replaced with " SWA procedures ," for consistency, which is the term used in §250.1930(a).
1931	What must be included in my SEMS program for 'Ultimate	<i>'Your SEMS program must identify the person with the ultimate work authority (UWA), i.e. the person located on the</i>	The example (<i>i.e. the person located on the MODU</i>) in this requirement creates confusion by suggesting that the person would be on the facility. For unmanned facilities where personnel may be working on a daily basis, the person with UWA for that unmanned facility and crew may not be located on that facility, but located somewhere else (either offshore or onshore).	To eliminate this potential confusion, we recommend the removal of the following language: " <i>i.e. the person located on the facility or MODU with the final responsibility for making decisions relating to activity and</i>

	Work Authority’?	<i>MODU with the final responsibility for making decisions related to activity and operations on the facility.’</i>		operations on the facility.’
1932(a)	What are my employee participation program requirements?		<p>Proposed section 1932 is out of sequence with the overall SEMS program. It requires employee participation in the program with specific requirements for employee consultation and a written plan among other things. This new section is proposed at this time, but the overall SEMS program has been finalized and will be effective on November 15, 2011. Knowing that the agency made the 13 SEMS elements mandatory (they were previously voluntary) with a November 15, 2011 implementation date, industry has been working for months in preparation for the November 15 deadline. The proposed new section does not include a proposed effective date, but since it will obviously be after the new 13 SEMS mandatory elements are required to be implemented on November 15, there would be no way to effectively comply with this employee participation provision as substantially all of the program elements will already be generated before the new requirement for employee participation is finalized and made effective.</p>	<p>Similar to other programs that speak to employee participation - Recommend deleting this section altogether and replacing with the following:</p> <p>What are my employee participation requirements?</p> <p>You must include appropriate employees in the development and revision of your SEMS.</p> <p>a. You must have a written plan of action for how you include appropriate employees in the future development and revisions of your SEMS program.</p> <p>b. You must provide access to hazards analyses and to all other information required to be developed under this subpart.</p>
1933 (c)	What criteria must be included for reporting unsafe work conditions?	<i>‘Any person may report to BOEMRE/BSEE a possible violation of any BOEMRE/BSEE order, standard or regulation in this subchapter, or other Federal Law relating to offshore safety, or any other hazardous or unsafe working condition on any facility.’</i>	<p>This appears to be a more detailed requirement similar to the existing 30 CFR 250.193 – Reports and investigations of apparent violations. This section in the existing rule reads as follows:</p> <p><i>“Any person may report to BOEMRE/BSEE an apparent violation or failure to comply with any provision of the Act, any provision of a lease, license, or permit issued under the Act, or any provision of any regulation or order issued under the Act. When BOEMRE/BSEE receives a report of an apparent violation, or when an BOEMRE/BSEE employee detects an apparent violation after making an initial determination of the validity, BOEMRE/BSEE will investigate according to BOEMRE/BSEE procedures”</i></p>	<p>The agency should consider deleting this from the proposed Subpart S revisions and consider revising 250.193 to read as follows:</p> <p><i>Any affected person may anonymously report to BOEMRE/BSEE, an apparent violation or failure to comply with any provision of the Act, any provision of a lease, license, or permit issued under the Act, or any provision of any regulation or order issued under the Act. Any affected person may anonymously report to BOEMRE/BSEE an unsafe or hazardous condition, including unsafe and</i></p>

			<p>We support continuous observation related to worksite and personnel safety and the encouragement of employees to communicate unsafe work conditions. However, the first action following identification of an unsafe activity should be facilitating making the working environment safer as quickly as possible by eliminating the hazard. In addition to the current proposed criteria, we suggest adding a requirement for personnel to first notify the operator of unsafe conditions so they can be addressed and remedied immediately.</p>	<p><i>hazardous conditions reportable to the Coast Guard as required at 33 CFR 142.7 and 46 CFR 109.419. When BOEMRE/BSEE receives a report of an apparent violation, or when a BOEMRE/BSEE employee detects an apparent violation after making an initial determination of the validity, BOEMRE/BSEE will investigate according to BOEMRE/BSEE procedures. All operators must post a notice of this regulation in a visible location frequently visited by personnel. This posting shall include The BOEMRE/BSEE Safety Hotline phone number (1-877-440-0173 or 202 208-5646), and the mailing address for the US Dept of Interior, Bureau of Safety and Environmental Enforcement, Investigations and Review Unit, 1849 C Street, NW., MS-5560, Washington, DC 20240.</i></p>
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