

TRANSMITTAL



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Ref.: 404610/AUS/BOEM/T/0001

Docket number BOEM-2011-0003 (RIN 1010-AD73)

November 11, 2011

Please find herewith the attached documents. The purpose of this consignment is indicated with an **X**:

as agreed  
as requested  
according to telecon on:

awaiting comments  
returned with thanks  
for approval

**X for your information**

| Item | Document no.               | Rev. | Date      | Description   | Qty. |
|------|----------------------------|------|-----------|---|------|
| 1    | 404610/AUS/BOEM/<br>L/0001 |      | 11-Nov-11 | Revisions to Safety and Environmental<br>Management Systems (SEMS), 1010-AD73 | 1    |
|      |                            |      |           |   |      |

Sent by : Annemarie Dobbs  
Department : Project Management  
Signature for receipt :  
Date :

Please sign and return this transmittal for receipt of the above listed documents to the above stated address.

Sent via: UPS # 1Z9R99770191032826



**Allseas USA Inc.**

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Ref. 404610/AUS/BOEM/L/0001

November 10, 2011

Subject: **Revisions to Safety and Environmental Management Systems (SEMS), 1010-AD73**

Dear Sir/Madam,

We are writing from Allseas USA Inc., a subsidiary of the Swiss-based Allseas Group S.A., one of the global leaders in offshore pipeline installation and related subsea construction. Allseas owns and operates a versatile fleet of six specialised pipelay and support vessels. Being a global player, our vessels also operate on the US Outer Continental Shelf.

We are writing in response to the BOEMRE notice of proposed rulemaking on 14 September 2011 regarding revisions to the Safety and Environmental Management Systems (SEMS)(76 FR 56683 – 56694).

**General remarks**

Allseas fully supports efforts to improve safety and environmental management, and many of the proposed SEMS elements are already accepted industry practice.

However, based on the two main aspects of our operations as listed below, Allseas is seeking clarification as to the applicability of any SEMS specific requirements in relation to our activities:

- Allseas' core business is the installation of new submarine pipelines and therefore we are not directly engaged in any oil, gas or sulphur operations;
- Allseas interprets § 250.1900(d), 30 CFR to mean that if our vessel operations fall under the jurisdiction of the US Coast Guard (USCG), which we believe it to be so as a USCG inspected vessel, then a requirement to have the elements of SEMS / API RP 75 within our management system is not applicable. Allseas understands there is a requirement for Operators to form an agreement with contractors associated with all aspects of drilling, production, well workover, well completion and well servicing operations; however, Allseas is not involved in these upstream operations under the jurisdiction of Title 30 U.S.C. and/or the Bureau of Offshore Energy, Regulation, and Enforcement (BOEMRE). Allseas only provides marine services in the construction of new pipelines, which we believe to be under the exclusive jurisdiction of Title 46 U.S.C. and/or USCG.

In case our operations would fall under the proposed ruling, we would wish to make the following observations on the proposed ruling.

**250.1911 (b) – What criteria for Hazards Analysis must my SEMS program meet?**

*(b) Job Safety Analysis (JSA)*

The proposed amendments introduce requirements to both recognise and identify hazards and to develop a Job Safety Analysis (JSA) for specific activities. However, the wording does not appear to split out the broader hazard analysis for the overall facility from the detailed JSA for an individual activity.

In addition, the third sentence of this section states that *'The JSA must include all personnel involved with or affected by the activity being conducted.'* The proposal for JSAs to include all personnel 'affected by the activity being conducted' is extremely wide ranging, and would be impossible to quantify or enforce. We therefore recommend amending the text to read as follows:

*'The JSA must include all personnel involved with the activity being conducted.'*

**250.1911 (b) (1) (i) – What criteria for Hazards Analysis must my SEMS program meet?**

*'The steps involved in performing a specific job'*

We would recommend removing the requirement that the JSA record the steps involved in completing the job. Otherwise, this risks confusing the JSA with the procedure for the job itself. Many jobs do require a procedure, but the intent and focus of the JSA should be about hazard identification and mitigation. If a procedure is needed it should be a separate document that is reviewed during the course of completing the JSA.

**250.1911 (b) (3) – What criteria for Hazards Analysis must my SEMS program meet?**

*'The person onsite designated by the operator as the person in charge of the facility must approve and sign the JSA.'*

Assigning approval responsibility to one individual may lead to unnecessary work delay and/or the tendency to complete a JSA the day before the task, possibly omitting current conditions or risks that might have been captured just before undertaking the work.

In addition, the person directly in charge of the specific operation is the person most knowledgeable about the activity, and it should be that person who should sign the JSA on behalf of the operator. Approval authority for JSAs should therefore be expanded to include other competent personnel designated by the operator.

BOEMRE should also clarify that electronic signatures would be permitted.

**250.1911 (b) (4) – What criteria for Hazards Analysis must my SEMS program meet?**

*'A single JSA remains sufficient provided that the relevant activity is recurring, without major changes to personnel, procedures, equipment environmental conditions or other major issues associated with that activity.'*

In the preamble, BOEMRE indicates that, should these changes be present, *'the person in charge of the activity could decide that a JSA for each employee engaged in that activity is not required.'*

This would seem to infer that the normal expectation would be that the person in charge **would** undertake a JSA for each person in these circumstances. This methodology would be contrary to many companies' 'Management of Change' procedures and may be administratively burdensome to the person in charge.

The wording *'a single JSA remains sufficient'* should be revised, as it is currently unclear what these words mean within the context of this section.

**250.1911 (c) & (d) – What criteria for Hazards Analysis must my SEMS program meet?**

This proposed subsection states that: *'...all employees and contractors... must be trained on... the development and implementation of your JSA.'*

The term *'your JSA'* implies that there is one, single JSA that is prepared by the operator. This is not the case; multiple JSAs are prepared, depending on the specific job. The proposed language should therefore be revised to read that *'all employees and contractors... must be trained on... the development and implementation of JSAs'*.

In addition, the proposed text would appear to make the operator directly responsible for hazard identification training for contractors' employees. In our view, it is not appropriate to suggest that operators should be responsible for managing the training of contractors' employees; instead, the operator's responsibility should be limited to verifying that contractors are managing their competency programs effectively.

The proposed subsection also says that: *'You must provide training to these personnel within 30 days of employment...'*. The proposed language should be revised to say, *'You must ensure these personnel have received training within 30 days of employment...'*. This revision would make proposed subsections (c) and (d) consistent in the requirement to verify that contractors have received training.

**250.1920 (a) – What are the auditing requirements for my SEMS program?**

*'You must have your SEMS program audited by an independent third party according to the requirements of this subpart and API RP 75.'*

This is a new requirement, which will take time to bed in. Appropriate numbers of suitably skilled and knowledgeable third party auditors will not be available immediately. Also, it will take time for the industry to become familiar with the new requirements and for operators' and auditors' personnel to be able to interact sufficiently, to go beyond strict regulatory compliance and be able to gauge SEMS' programs' operational safety effectiveness.

Given concerns voiced by other industry organisations regarding capacity and availability of resources, some kind of phase in of this requirement might be the most pragmatic approach.

**250.1930 (a) – What must be included in my SEMS program for 'Stop Work Authority (SWA)?'**

*'and witness any activity that creates an imminent risk or danger'*

Most operations present some level of danger when they are being conducted. However, that risk can be managed and mitigated through the application of barriers or controls. The draft text should therefore be qualified, to show that an SWA is applicable when a threat or danger is outside of the ordinary.

We would therefore recommend changing the wording to *'and witness any activity that creates an imminent and significant risk or danger'*.

The revised wording would provide a link to the extent of consequences described in sub section (1) and (2) of this regulation.

**250.1930 (c) – What must be included in my SEMS program for 'Stop Work Authority (SWA)?'**

*'Work may be resumed upon a determination by the person in ultimate work authority that the imminent risk or danger that led to the stoppage does not exist or no longer exists.'*

This statement may be contrary to many companies' 'Management of Change' procedures that take authority to restart activities for certain initial risk level changes away from the ultimate work authority and place the responsibility with onshore management.

Placing responsibility on the ultimate work authority for recommencement of activities may place a burden of responsibility that may be better passed to onshore and more senior management. Consideration should be given to amending the wording of this requirement.

In line with our proposed rewording in **250.1930 (a)** (see above), we would recommend changing the wording to *'that the imminent and significant risk or danger that led to the stoppage does not exist or no longer exists'*.

#### **250.1930 (e) – What must be included in my SEMS program for 'Stop Work Authority (SWA)?'**

*'Additionally a review of the SWA Policy must be completed as part of all safety meetings.'*

Requiring a review of the SWA Policy at all safety meetings is impractical, with no tangible safety benefits.

We would recommend rewording this section to read *'Additionally a reiteration of the content, application and responsibilities under the SWA Policy, should be completed as part of all safety meetings'*.

#### **250.1931 – What must be included in my SEMS program for 'Ultimate Work Authority'?**

*'Your SEMS program must identify the person with the ultimate work authority (UWA), i.e. the person located on the MODU with the final responsibility for making decisions related to activity and operations on the facility. This person must be designated by the operator taking into account all applicable Coast Guard regulations that deal with designating 'a person in charge' (in accordance with USCG definition) of a MODU or OCS facility found in 33 CFR 146.5 and 46 CFR 09.109. Your SEMS program must clearly define who is in charge at all times.'*

This requirement fails to address the case of more complex combined operations, where the person with UWA may not necessarily be the person in charge of the unit. This is particularly the case if the SEMS requirements are to also apply to activities conducted by other offshore units, as neither 33 CFR 146.5 nor 46 CFR 109.109 would be applicable to some of the vessels that would be considered a MODU under the proposed definition.

To eliminate this potential confusion, we recommend the removal of the following language: *'i.e. the person located on the facility or MODU with the final responsibility for making decisions relating to activity and operations on the facility'*.

#### **250.1932 (a) – What are my employee participation program requirements?**

The proposed text states that *'Management must consult with their employees on the development and implementation of the company's SEMS program'*.

Not all employees can be expected to participate in the development of the SEMS program. Instead, the requirement should reflect that relevant input.

The use of the term "employees" could be a potential source of confusion given the distinction between employees and contracted workers in the existing §250.1903 definitions of "Designated and qualified personnel" and "personnel" and the lack of a definition of "employee" applicable to subpart S.

#### **250.1933 (c) – What criteria must be included for reporting unsafe work conditions?**

*'Any person may report to BOEMRE a possible violation of any BOEMRE 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.'*

This statement may contradict the SWA requirements stated in 30 CFR 250.1930. The ability of an individual to potentially bypass the Operator's mandated SWA system may leave the worksite and its people exposed to unnecessary risk.

Consider rewording the statement to include *'any individual reporting to BOEMRE must give cognizance to the requirements of CFR 250.1930 Stop Work Authority and report immediately unsafe working conditions to the operator of the facility before reporting to BOEMRE'*.

Also the use of the definition 'unsafe work conditions' in these circumstances differs from the widely held industry definition that may include conditions from 'untidy workplaces' to 'equipment about to catastrophically fail'. Reporting to BOEMRE of all hazardous conditions may deluge BOEMRE in reports of small significance to the safety of personnel on the facility and the protection of the environment. Consideration should be given to amending this section to include *'any other hazardous or unsafe working condition of significant hazard or risk on any facility'*. This change may more effectively link SWA and unsafe working conditions.

Allseas appreciates the opportunity to provide a response to this proposed rulemaking and requests that our comments be taken into account.

Yours faithfully,  
For Allseas USA Inc.

A handwritten signature in black ink, appearing to read 'FK', is written over two horizontal lines.

Frank Kluwen  
Director