



November 14, 2011

Bureau of Ocean Energy Management, Regulation and Enforcement
Regulations and Standards Branch (RSB)
381 Elden Street
MS-4024
Herndon
Virginia 20170-4817

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

Dear sir or madam,

Cal Dive International, Inc. (CDI) operates offshore construction vessels in support of offshore exploration and production activities the United States Outer Continental Shelf. As contractors to the key oil and gas operators on the US OCS, our activities will be impacted by the contractor management requirements of the Safety and Environmental Management Systems (SEMS) rulings.

The following comments are in response to BOEMRE notice of proposed rulemaking on 14 September 2011 regarding revisions to SEMS (76 FR 56683 – 56694).

General remarks

CDI fully supports efforts to improve safety and environmental management, and many of the proposed SEMS elements are already accepted industry practice. However, to be effective, safety and environmental management programs must be part of a holistic approach, and SEMS must therefore be part of a broader regulatory strategy, to ensure the effective transition to a goal setting, safety management regime.

The scope of application of the SEMS requirements must be clarified. It had been initially understood that the SEMS requirements specifically addressed the risks related to drilling and production activities, but the proposed revisions include references to well work-over, well completion and well servicing activities. These are activities which can be conducted by vessels other than those with drilling capability, and there is therefore confusion about the intended scope of application, concern about the potential jurisdictional conflict, and possible regulatory confusion.

In addition, we strongly suggest that the SEMS II regulation explicitly state that marine vessel managers operating under an approved Document of Compliance (DOC) with the International Safety Management (ISM) Code are considered to be substantially equivalent to the SEMS requirement without any further documentation. Further, it should also be effectively recognized that the United States Coast Guard (USCG) maintains exclusive, direct regulatory jurisdiction over vessel operations.

250.1903 – Definitions: Mobile offshore drilling unit or MODU

The proposed rule defines MODU as *‘a vessel capable of engaging in drilling, well work-over, well completion and well servicing operations for exploring or exploiting subsea oil, gas or other mineral resources.’*

We are concerned about the proposal to reference well work-over, well completion and well servicing operations in the definition of MODU. This is at odds with the accepted interpretation of MODU, which is of a vessel primarily engaged in drilling operations, and would conflict with the definition used in existing federal regulations, including United States Coast Guard (USCG) regulations. Given the overlapping jurisdiction with the Coast Guard, this different definition could be a source of confusion.

Moreover, 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.

We are concerned that this different definition could result in vessels without ‘MODU’ classification being prevented from undertaking well servicing operations.

This could also result in a plethora of other regulatory requirements and industry standards for MODUs, which are specifically addressed to vessels engaged in drilling activities, being applied to mono-hull and other offshore vessel types capable of well service operations but not engaged in drilling operations.

The proposed definition should be identical to that used by the United States Coast Guard i.e.:

‘Mobile Offshore Drilling Unit or MODU means a vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources.’

In addition, to avoid confusion, any definition of MODU should apply throughout 250 and not just for subpart S of the regulations.

The scope of application must also be clarified. The proposed text limits the SEMS requirements to OCS activities that are regulated under BOEMRE. However, as identified above, the proposed definition of MODU refers to well intervention operations that can be carried out by vessels other than MODUs, whose operations would not fall under the scope of BOEMRE. This is a potential source of confusion, particularly regarding areas of overlap with Coast Guard regulations.

The Coast Guard already has regulations in place for Safety Management Systems (33 CFR part 96, Rules for the Safe Operation of Vessels and Safety Management Systems). These regulations implement Chapter IX of the International Convention for the Safety of Life at Sea (SOLAS), 1974, International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Safety Management (ISM) Code), as required by 46 U.S.C. Chapter 32. The Coast Guard enforces these regulations with respect to self-propelled MODUs and other vessels (regardless of flag) engaged in OCS activities.

The final text must avoid any potential regulatory confusion or overlap between the SEMS requirements and the existing Coast Guard regime in place for vessels, and the scope of application must therefore be clear for each regulation.

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 recognize 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. CDI 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'

CDI recommends 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.

250.1932 (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.

Cal Dive International, Inc. appreciates the opportunity to provide a response to this proposed rulemaking and requests that our comments be taken into account.

Respectfully,

Cal Dive International, Inc.

Alvin P. Guthrie

Compliance Manager (DPA/CSO)
Marine Management

CC: File