

**OOO/API Comments on Proposed Subpart S-SEMS
RIN 1010-AD 15; FR Vol 74, No. 115, Published 6-17-09**

Proposed Rule	Relation to API RP 75/14 J	Questions/Comments	Recommendation
§250.1905 What criteria for Hazards Analyses must my SEMS program meet?			Note: If all of the comments below cannot be incorporated into the rulemaking, then we recommend that the prescriptive language be replaced with the following: “You must develop and implement a hazards analysis (facility level) and a job hazard analysis (operations/task level) for all your facilities in accordance with API RP 75, Section 3—Hazard Analysis.”
You must develop and implement a hazards analysis (facility level) and a job hazard analysis (operations/task level) for all of your facilities. For this subpart, facilities include all types of offshore structures permanently or temporarily attached to the seabed (i.e., mobile offshore drilling units; floating production systems; floating production, storage and offloading facilities; tension-leg platforms; and spars) used for exploration, development, production, and transportation activities for oil, gas, or sulphur from areas leased in the OCS.	<p>1. It appears that the hazards analysis (facility level) correlates to Section 3 in API RP 75 and Section 7 of API RP 14J.</p> <p>2. Job hazard analysis (JHA) (operations/task level) is not covered explicitly in API RP 75 as a separate section. Rather, the approach taken is to integrate JHA in the various sections. See Sections 4 and 5 for examples.</p> <p>3. API RP 75 includes a discussion of appropriate hazard analysis for MODUs to</p>	<p>1. The regulated community has varying degrees of understanding towards the terms “job hazard analysis (JHA)” and “job safety analysis (JSA)”. JSA’s are typically viewed as a tool to perform the OSHA required JHA. Does MMS consider these terms the same? If not, please explain the difference from your understanding. The regulated community commonly understands JHA to be a broad analysis of the hazards for an overall operating procedure. A JSA is a review of a specific task at hand where the steps</p>	<p>1. Please state the correlation to the appropriate section within API RP 75 such as “You must develop and implement a hazards analysis (facility level) as described in Section 3 of API RP 75. For clarity, we recommend that job hazard analysis be changed to job safety analysis in all places in the regulation.</p> <p>2. Delete MODU from the list of facilities...(i.e. floating production, storage....)</p> <p>3. Add a new section addressing hazard analysis for</p>

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<p>Facilities also include DOI regulated pipelines. The purpose of both the facility level and operations/task level hazards analyses is to identify accident scenarios which could lead to worker injuries, fatalities, property damage, discharges and emissions, coastal and marine environmental impacts, or other adverse consequences. You must document and maintain current analyses for each operation covered by this section for the life of the operation at the facility. The analyses must be updated when an internal audit is conducted to assure that it is consistent with the current operations on your facility.</p>	<p>assure that the MODU is not exposed to conditions beyond its design limits, but does not suggest that a complete hazard analysis be conducted since hazard analysis is implicit in flag State and classification society certifications. No hazard analysis methodology for MODUs is contained in API RP 14J. The MODU Marine Operations Manual is required to provide information on routine operations and operating limits.</p>	<p>and hazards associated with a specific task are reviewed. To affect behavior change, we believe that a JSA is the more effective methodology than a JHA. However, it is not clear in the rulemaking which methodology MMS is mandating. We note that MMS Safety Alerts 276 and 282 have good descriptions of the difference between JHA and JSA.</p> <p>2. A MODU should not be included in the list of facilities covered by this subpart. Every operator who picks up a MODU for operations on his lease should not have to perform either a complete facility level or job hazard analysis. If the MODU will be exposed to conditions beyond its design limits, then a limited hazard analysis conforming to API RP 75 Section 3.2.2 should be performed. The MODU operator should have a JHA/JSA program to cover the operations on his rig. These should be reviewed and updated for operations not</p>	<p>MODUs such as..."A site-specific hazard analysis must be performed for those operations where the MODU may be exposed to conditions beyond its design limits." Or alternatively, add a section that says "You must verify that the operator of a MODU that performs work on your lease has conducted a hazard analysis of the operations to be performed and has a safety and environmental management plan in place."</p> <p>4. Strike "coastal and marine environmental impacts" from the accident scenarios list.</p> <p>5. The requirement for documentation should be changed to the following: "You must document and maintain current analyses for each operation covered by this section for the duration of the specific operation. Hazard analysis (facility level) should be retained in the operators records where the facility design information is located.</p>
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		<p>covered in the existing program.</p> <p>3. It is not clear what MMS expectations are for a hazard review to cover coastal and marine environmental impact. These potential impacts are already covered in the environmental analysis conducted by MMS for lease sales and exploration and development plans. The operator addresses these impacts in their EP, DOCD and OSRPs. This requirement is duplicative of analysis already conducted in accordance with the MMS regulations is 30 CFR 250, Subpart B and 30 CFR 254.</p> <p>4. We see no purpose in maintaining the hazard analysis on the facility. In many cases, the facility may be an unmanned facility with no storage capability. Does MMS really expect a MODU to store a hazard analysis onboard the MODU from each and every operator who has performed such an analysis? As in API</p>	<p>Previously completed job hazard analysis (operations/task level), commonly referred to as job safety analysis (JSA), should be kept in a location where it is readily accessible to personnel for review prior to conducting a new JSA on the operation or task the analysis covers.</p> <p>6. Change the last sentence to: "The hazard analyses (facility level) must be reviewed periodically and updated as appropriate when changes warrant to verify that it is consistent with the current operations on the facility consistent with the requirements in Section 3.4 of API RP 75."</p>
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		<p>RP 75, the hazard report (facility level) should be kept on file for the life of the facility. It is most appropriate that this file be kept in the operator's office where design and other facility related information is kept since this data will need to be referred to in conjunction with the hazard analysis. For job hazard analysis (commonly referred to as Job Safety Analysis-JSA), this should be kept where it is readily accessible to the personnel actually reviewing the analysis prior to performing the job it covers.</p> <p>5. We do not understand the reference to "internal audit" and know of no facility specific audits that are required. We note that proposed section 250.1910 refers to a SEMS audit, but that is on the overall program. Periodic analyses should be conducted as described in Section 3.4 of API RP 75.</p>	
(a) Hazards Analysis (facility level). For a hazards analysis (facility level), you must	1. API RP 75 Section 3.3 provides a methodology for prioritizing the hazard analysis	1. We assume that if the operator has performed a hazard analysis (facility level)	<p>We recommend adding the following:</p> <p>(b) A hazard analysis (facility</p>

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perform an initial hazards analysis on each facility on or before [THE DATE 1 YEAR AFTER THE EFFECTIVE DATE OF THE FINAL RULE]. The hazards analysis must be appropriate to the complexity of the operation and must identify, evaluate, and manage the hazards involved in the operation.	for existing facilities.	<p>prior to the effective date of the final rule that it meets the requirement for this initial hazards analysis. If this is not true, please clarify.</p> <p>2. If a previous operator has conducted a hazard analysis for a facility and provided it to the current operator, does that analysis meet the requirement for the initial hazard analysis or does MMS expect the analysis to be conducted by the current operator? If not, when does MMS expect the current operator to complete the initial analysis following becoming the operator of a facility?</p> <p>3. If an operator has not previously conducted a hazard analysis on all of his platforms, it may be impossible to complete hazard analysis of all of his platforms within 1 year of the effective date of the final rule. Provision should be provided for providing a prioritized list of facilities to the Regional Supervisor along with the date that each hazard analysis will be completed.</p>	level) conducted by a previous operator that meets the requirements in 30 CFR 250.1905(a) and provided to you on or before [THE DATE 1 YEAR AFTER THE EFFECTIVE DATE OF THE FINAL RULE] is acceptable as the initial hazard analysis for the facility.
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		This could be either in the rulemaking or a companion NTL.	
(1) The hazards analysis must address the following: (i) Hazards of the operation; (ii) Previous incidents related to the operation you are evaluating. Special attention should be given in your hazards analysis to any incident in which you were issued an Incident of Noncompliance, civil, or criminal penalty; (iii) Control technology applicable to the operation your hazards analysis is evaluating; (iv) A qualitative evaluation of the possible safety and health effects on employees, and potential impacts to the coastal and marine environments, which may result if the control technology fails; and		<p>1. (1)(ii) We do not understand the requirement that special attention should be given to any incident in which you were issued an INC, civil or criminal penalty, nor do we understand what “special attention” should cover, nor do we understand what length of time we should consider. Further, we have no idea how the enforcement action of a regulatory agency relates to hazard analysis. We agree that previous incidents related to the operation, to the extent known by the operator, should be evaluated regardless of whether or not they resulted in an enforcement action. It should be noted that in many cases, a facility may have had multiple previous operators and a complete history of previous incidents may not have been provided to the current operator.</p> <p>2. (1)(iv) As discussed above, we are already required by regulation to evaluate the potential impacts to the coastal</p>	<p>1. (1)(ii) Strike the sentence “Special...penalty”</p> <p>2. (1)(iv) Strike “and potential impacts to the coastal and marine environments”</p>

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		and marine environments by our operations within other documents and plans that are reviewed and approved by MMS. This is a redundant regulatory requirement.	
(2) The hazards analysis must be performed by a person(s) with experience in the operations being evaluated. These individuals also need to be experienced in the hazards analysis methodologies being employed.		1. The language in the rulemaking seems to imply that the person(s) have to be experienced in both the facility operations and in hazard analysis methodology. This may be appropriate if only one person is conducting the hazard analysis; however, in most instances, a team conducts the hazard analysis. The team will include individuals that are experienced in the operations being evaluated and another team member(s) will be experienced in the methodology being utilized. Typically, these hazard analyses are facilitated by an individual with training and experience in risk/hazard identification and mitigation.	(2) Change the second sentence to: "At least one person needs to be experienced...."
(3) You should assure that the recommendations in the hazards analysis are resolved and that the resolution is documented.			

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<p>(b) Job Hazard Analysis (operations/ task level). Job hazard analysis (operations/task level) must be conducted for each work project and activity. (1) You must keep a copy of the most recent job hazard analysis at the job site, and they must be readily accessible to employees. (2) You must complete and maintain an index naming the task, the date the job hazard analysis was completed, and the date the analysis was revised.</p>		<p>1. It is not clear what constitutes a job hazards analysis. Are you referring to the OSHA required JHA as described in OSHA 3071? Many operators have multiple ways of dealing with this starting with MOC, Operating Procedures, OEM manuals, PPE, etc. Do these suffice for a JHA? Many hazard analysis (facility level) methodologies include JHA as part of the analysis. If this is documented in the facility level hazard analysis, or in MOC or operating procedures, etc does it meet the requirement? Alternatively, are you referring to a job safety analysis (JSA) which is conducted for a particular task or procedure? One “job” may consist of multiple “tasks”. Each “task” will have multiple steps. One definition of a Job Safety Analysis (JSA) is “a method that can be used to identify, analyze and record 1) the steps involved in performing a specific job, 2) the existing or potential safety and health hazards associated with each</p>	<p>1. Change the requirement from Job Hazard Analysis to Job Safety Analysis. 2. Please provide a clear definition of the terms used in the final regulations, Job Hazard Analysis and/or Job Safety Analysis. 3. In (1) change “employees” to “workers”. 4. Strike the requirement in (b)(2)</p>
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		<p>step, and 3) the recommended action(s)/procedure(s) that will eliminate or reduce these hazards and the risk of a workplace injury or illness.” A JHA can be performed by a group with little or no experience with the existing facility. A JSA must be performed by a group of workers performing the job/task. OOC believes that JSA’s are more likely to involve a behavior change in the workers performing the task; therefore, we recommend that JSA’s be required, not JHA’s.</p> <p>2. The rulemaking also seems to envision that a “book” of JHA’s/JSA’s is maintained at the job site. While this may be true for jobs/tasks that are routinely performed, in many cases a JSA is completed for a non-routine task (e.g. an unusual lifting operation). The best JSA’s are prepared by the workers on location and are handwritten. They should be kept in a manner that the workers can easily access them.</p>	
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		<p>The real value in the JSA is the “process” of the workers involved in the specific task actually discussing the hazards, agreeing on the individual roles and responsibilities and completing the JSA document. While it is important that JSAs for both routine and non-routine tasks be available for review by the workers until the job is completed, they may not be in a nice, neat, properly indexed book. We have no idea how the prescriptive documentation details in (2) relate to keeping workers safe. They should be allowed to use whatever documentation technique works for them.</p> <p>3. The rulemaking also refers to “employees”. In many cases, the workers performing a job/task may be employees, contractors or a mix. The goal is to have this information available to those who are performing the job/task.</p> <p>4. There should be some prioritization in jobs/tasks to be evaluated. Everything an</p>	
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		<p>operator does is primarily a job/task. Routine jobs/tasks may be covered under operating procedures and the hazard analysis may be included in those procedures; therefore, a JSA may not be necessary. Jobs/tasks that are not routinely done and not covered by operating procedures should have a JSA. Jobs/tasks should be selected for analysis in priority order. We suggest the following prioritization</p> <ol style="list-style-type: none"> 1. Jobs with highest rate of accidents or greatest potential for injuries. 2. New jobs or non-routine jobs 3. Changes in process and procedures. 	
§250.1906 What criteria for Operating Procedures must my SEMS program meet?			<p>Note: If all of the comments below cannot be incorporated into the rulemaking, then we recommend that the prescriptive language be replaced with the following: “You must develop and implement written operating procedures in accordance with</p>

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			API RP 75 Section 5— Operating Procedures.”
<p>(a) You must develop and implement written operating procedures that provide instructions for conducting safe and environmentally sound activities involved in each operation addressed in your SEMS program. These procedures must address the following:</p> <p>(1) Initial startup; (2) Normal operations; (3) Temporary operations; (4) Emergency operations; (5) Normal shutdown; (6) Startup following a turnaround, or after an emergency shutdown; (7) Bypassing and flagging; (8) Safety and environmental consequences of deviating from your equipment operating limits and steps required to correct or avoid this deviation; (9) Properties of, and hazards presented by, the chemicals used in the operations; (10) Precautions you will take to prevent the exposure of chemicals used in your operations to personnel and the</p>	<p>1. API RP 75 clearly specifies that operating procedures are specific to the production facility. For MODU operations, the marine operations manual is referenced.</p> <p>2. API RP 75 intent was to include environmental factors into consideration during startup, normal operations, temporary operations.... not developing procedures specific to these issues. Specific environmental and chemical handling issues are covered under and or overlap with Hazardous Material Regulations, CERCLA, RCRA, H2S regulations and NPDES.</p>	<p>1. Coupled with the requirement in 250.905 to develop a SEMS for Mobile Offshore Drilling Units 250.1906 (a) 1 & 5 would now require the operator to develop procedure for some drilling facilities that we neither own nor operate. This would significantly add to the documentation burden on the operators. We do not believe this would benefit the operator, the owner of the facility or the personnel on the rig. Operators hire contractors that have safety programs in place and are in compliance with applicable laws but not dictate to them how to achieve that. Mobile Offshore Drilling Units already have operations manuals developed in conformance with flag State requirements and/or IMO MODU Code and fall under the jurisdiction of the United States Coast Guard. The proposed rule duplicates these requirements. Most operators do not have the resources or the expertise to</p>	<p>1. (a) change to “...implement written production facility operating procedures....” 2. change (1) to initial startup, startup following a turnaround, or after an emergency shutdown and eliminate (6) 3. (3) Define “Temporary Operations” 4. (4) change to “Emergency Shutdown Operations” 5. Strike (a)(7)-(13)</p>

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<p>environment. The precautions must include control technology, personal protective equipment, and measures to be taken if physical contact or airborne exposure occurs;</p> <p>(11) Raw materials used in your operations and the quality control procedures you used in purchasing these raw materials;</p> <p>(12) Control of hazardous chemical inventory; and</p> <p>(13) Coastal and marine environmental impacts identified through your hazards analysis.</p>		<p>develop operational procedures for drilling operations and depend on the contracted company who are the experts to develop their own procedures and safety systems.</p> <p>2. Initial startup, start up following a turnaround or after an emergency shutdown are redundant and encompass the same elements. We suggest they be combined.</p> <p>3. OOC does not understand what MMS envisions as “temporary operations”. Please define or explain.</p> <p>4. OOC believes MMS means Emergency Shutdown Operations in (4). If not, then please define “emergency operations”.</p> <p>5. (7) Bypassing and flagging should be included in the individual operating procedure, it’s not a separate operating procedure in and of itself.</p> <p>6. (8) This is already covered by API RP 14C and is included</p>	
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		<p>in the individual operating procedures and is not a separate operating procedure in and of itself.</p> <p>7.(8) (9), (10), (11) (12) API RP 75 intent was to take environmental factors into consideration during startup, normal operations, temporary operations.... not developing procedures specific to these issues. Specific environmental issues are covered under and or overlap with Hazardous Material Regulations, CERCLA, RCRA, H2S regulations and NPDES. These sections should be removed.</p> <p>8 (13) These are taken into account in the operating procedures themselves, they are not a separate operating procedure. Environmental impact identification is also covered in NPDES, air permit, oil spill regulations and response plans. This section should be removed.</p>	
(b) Operating procedures must		1. Personnel utilizing the	(b) Operating procedures must

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be accessible to all employees involved in the operations.		<p>operating procedures may be employees, contractors or a mix. We suggest using the term “workers”.</p> <p>2. Please state what you mean as “accessible”. The facility where the work is conducted may be manned or unmanned. We suggest that the operating procedures be kept at the nearest manned facility.</p>	be maintained at the nearest manned platform and accessible to all workers involved in the operations.
(c) Operating procedures must be reviewed as often as necessary to assure they reflect any changes made to your operations.			
(d) You must develop and implement safe and environmentally sound work practices for identified hazards during operations.		1. We have no idea what this language means and what to implement.	1. Strike (d)
§250.1907 What criteria for Mechanical Integrity must my SEMS program meet?			Note: If all of the comments below cannot be incorporated into the rulemaking, then we recommend that the prescriptive language be replaced with the following: “You must develop and implement written procedures that provide instructions to ensure the mechanical integrity and safe operation of

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			equipment through inspection, testing and quality assurance in accordance with API RP 75 Section 8—Assurance of Quality and Mechanical Integrity of Critical Equipment.”
You must develop and implement written procedures that provide instructions to ensure the mechanical integrity and safe operation of equipment through inspection, testing, and quality assurance. The purpose of mechanical integrity is to ensure that equipment is fit-for-service. Your mechanical integrity program must encompass all equipment and systems used to prevent or mitigate uncontrolled releases of hydrocarbons, toxic substances, or other materials that may cause environmental or safety consequences. These procedures must address the following:	API RP 75 covers Mechanical Integrity in Section 8.	1. Does MMS expect each operator to implement a mechanical integrity program for each MODU that we contract to work on our lease that we neither own nor operate? The MODU operator should have a mechanical integrity program for his equipment. The operator should verify that the MODU operator has such a program.	1. You must develop and implement written procedures that provide instructions to ensure the mechanical integrity and safe operation of equipment through inspection, testing, and quality assurance for equipment on your facility used to prevent or mitigate uncontrolled releases of hydrocarbons, toxic substances, or other materials that may cause environmental or safety consequences. For MODU’s operating on your lease, you must verify that the MODU operator has a mechanical integrity program that meets the requirement in this subpart. These procedures must address the following:
(a) The design, procurement, fabrication, installation, calibration, and maintenance of your equipment and systems in accordance with the		1. Include the requirements in (i) in (a)	(a)....specifications including, maintenance materials, spare parts, and equipment.

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manufacturer's design and material specifications.			
(b) The training of each employee involved in maintaining your equipment and systems so that your employees can implement your mechanical integrity program.		1. (b) Equipment may be maintained by employees, contractors or a mix. Some specialized equipment is actually maintained by manufacturer's representatives who periodically travel to offshore facilities to perform required maintenance. Therefore, our employees do not need to be trained to do the actual maintenance work for all equipment in the mechanical integrity program.	Replace (b) with the following: The training of maintenance workers in the application of the procedures, relevant hazards and safe work practices.
(c) The frequency of inspections and tests of your equipment and systems must be in accordance with MMS regulations and meet the manufacturer's recommendations. Inspections and tests can be performed more frequently if determined to be necessary by prior operating experience.			
(d) The documentation of each inspection and test that has been performed on your equipment and systems. This documentation must identify the date of the inspection or			

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test, the name and position, and include the signature of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection test.			
(e) The correction of deficiencies associated with equipment and systems that are outside the manufacturer's recommended limits before further use.			
(f) The installation of new equipment and constructing systems. The procedures must address the application for which they will be used.		1. OOC does not understand how this requirement is different from (a), nor how it is to be implements.	1. Strike (f)
(g) The modification of existing equipment and systems. The procedures must assure that they are modified for the application for which they will be used.		1. OOC does not understand how this requirement is different from (a), nor how it is to be implements.	1. Strike (g)
(h) The verification that inspections and tests are being performed. The procedures must be appropriate to assure that equipment and systems are		1. Since MMS has outlined prescriptive requirements for the inspection and testing and the documentation of those inspections and tests, OOC	1. Strike (h)

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installed consistent with design specifications and the manufacturer's instructions.		does not understand what the requirement in (h) is and how it is different from (c) and (d) above nor how to implement it.	
(i) The assurance that maintenance materials, spare parts, and equipment are suitable for the applications for which they will be used.		1. We suggest this be included under (a)	1. Strike (i) and include under (a)
§250.1908 What criteria for Management of Change must my SEMS program meet?			Note: If all of the comments below cannot be incorporated into the rulemaking, then we recommend that the prescriptive language be replaced with the following: "You must develop and implement written management of change procedures in accordance with API RP 75 Section 4—Management of Change."
(a) You must develop and implement written management of change procedures for modifications associated with the following: (1) Equipment, (2) Operating procedures, (3) Personnel changes (including contractors), (4) Materials, and (5) Operating conditions.	API RP 75 provides clarification and examples of changes that are to be covered under the management of change process. The MMS rule is very vague.	1. There is no mention if the MOC is for both permanent and temporary changes or just permanent changes. Please clarify. 2. (2) A process for changing operating procedures has already been established in §250.1906(c). The MOC process should simply identify that operating procedures either need to be changed (or don't)	1. (2) Strike 2. (3) Personnel changes that could impact safety, environmental or production critical elements.

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		<p>as a result of changes to the facility. The actual change to the operating procedures shouldn't have to go through the MOC process.</p> <p>3. (3) What does MMS envision as personnel changes? OOC recommends that personnel changes be limited to where there is a change in personnel due to a change in organization or in personnel that supervise or operate the facility. Routine personnel vacancies and replacements, rotation, and shift or tour changes are addressed in other documents such as operating procedures and should not require additional management of change action.</p> <p>4. (4) What does MMS envision as a change in material that requires a MOC that is not already covered under equipment?</p> <p>5. (5) OOC assumes that changes in operating conditions includes such things as changes to the operating envelope (pressure, temperature, flow rates, etc) as described in the facility design basis or a change</p>	
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		in the chemistry of the product that was not considered in the equipment specification. If our assumption is not correct, please clarify.	
(b) Management of change procedures do not apply to situations involving replacement in kind (such as, replacement of one component by another component with the same performance capabilities).			
(c) You must review all changes prior to their implementation.		1. What does MMS envision by this requirement? OOC does not understand how this requirement is to be implemented.	
(d) The following items must be included in your management of change procedures: (1) The technical basis for the change; (2) Impact of the change on safety, health, and the coastal and marine environments; (3) Necessary time period to implement the change; and (4) Management approval procedures for the change.			
(e) Employees, including contractors whose job tasks will be affected by a change in the		1. (e) Job tasks may be performed by employees, contractors or a mix. We	1. (e) Workers whose job tasks will be affected by a change in the operation, must be informed

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operation, must be informed of, and trained in, the change prior to startup of the process or affected part of the operation; and		suggest changing “employees” to workers. 2. Not all changes require training.	of, and provided training if required, the change prior to startup of the process or affected part of the operation; and
(f) If a management of change results in a change in the operating procedures of your SEMS program, such changes must be documented and dated.		1. (f) OOC assumes that the documentation for this step will be under §250.1906(c).	1. (f)”If a management of change results in a change in the operating procedures required in §250.1906, updates to the procedures are required to be made in accordance with §250.1906 (c).
§250.1909 that criteria must be documented in my SEMS program for contractor selection?			
Your SEMS program must document contractor selection criteria. When selecting a contractor, you must obtain and evaluate information regarding the contractor’s safety and environmental performance.	Contractor selection is covered in API RP 75 under Safe Work Practices.	1. The MMS already has regulations in place to address training and competency assessment for both operator employee and contractors. 30 CFR 250 Subpart O, Well Control and Production Safety Training, clearly states that operators must ensure that both employees and contract personnel understand and can properly perform their duties – 30 CFR 250.1503 (b)(3) requires operators to have procedures “for verifying that all employees and contractor personnel engaged in well	1. Strike §250.1909 in its entirety.

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		<p>control or production safety operations can perform their assigned duties”. In fact, MMS periodically assesses the Subpart O program by auditing and testing as described in 30 CFR 250.1507 (d), which states “MMS or its authorized representative may conduct testing at either onshore or offshore locations. Tests will be designed to evaluate the competency of your employees or contract personnel in performing their assigned well control and production safety duties. You are responsible for the costs associated with this testing, excluding salary and travel costs for MMS personnel.”</p> <p>API/OOC finds that the proposed language in §250.1909 is redundant with existing regulations under 30 CFR 250 Subpart O and therefore should be eliminated from the proposed rule. If you do not agree, then please clarify the relationship between this proposed rule and the requirements in Subpart O and</p>	
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		identify what contractor groups that have otherwise not been addressed by the existing Subpart O requirements. If MMS has concerns regarding contractor selection or competency, then the appropriate regulation to address such concerns is within the Subpart O program.	
(a) A contractor is anyone performing work for the lessee. However, these requirements do not apply to contractors providing domestic service to the lessee or other contractors. Domestic services include janitorial work, food and beverage service, laundry service, housekeeping, and similar activities.		If Contractors are to be “accountable: for SEMS activities, their scale, complexity and scope of work should also be taken into account. Example: Contractor services vary from “Labor” (i.e. production operators), “Equipment” (i.e. Generators, machinery rentals) or both “Labor and Equipment” (i.e. drilling rig, welding machine and welder), etc. A contractor supplying “Labor” services should not be required to have a SEMS program, but the competency to work within the clients program (i.e. perform JSA’s initiate MOC process, utilize Operating Procedures in performance of duties, perform level one visual Mechanical Integrity inspections in	

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		accordance with a lessee's SEMS program. A contractor only supplying "Equipment" should have a Mechanical Integrity Plan and Operating Procedures that accompany the equipment and limited hazard analysis pertaining to his equipment. A contractor supplying "Labor and Equipment" should have a SEMS plan that covers his equipment and the operation, thereof.	
(b) You must document that your contracted employees are competent in the work practices necessary to perform their job in a safe and environmentally sound manner, and have policies and practices in place that are consistent with your SEMS program. Documentation of each contracted employee's competency to perform his/ her job and a copy of the contractor's SEMS program must be kept by the operator and the contractor at the facility where the contracted operations are being performed.	API RP 75 requires the operator to evaluate their contractor's safety and environmental management policies and practices and performance, but this rulemaking goes far beyond this requirement.		
§250.1910 What are my			Note: We recommend that the

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responsibilities when conducting a SEMS audit?			prescriptive language be replaced with the following: “You must audit your SEMS program in accordance with API RP 75 Section 12-Audit of Safety and Environmental Management Program Elements.”
(a) You must perform an audit of your entire SEMS program at least once every 3 years to evaluate compliance with the requirements of this subpart, and to identify areas in which safety and environmental performance needs to be improved. You must have your SEMS program audited by either an independent third party or your designated and qualified personnel (see §250.1912).	API RP 75 covers program audits in Section 12. API RP 75 envisions selecting facilities to audit where the proposed rulemaking indicates that the audit is just of the SEMS process.		
(b) Representatives from MMS may participate in your SEMS audit as observers. You must notify the Regional Supervisory Field Office (RSFO) at least 30 days prior to conducting your audit so that MMS may make arrangements to participate in the audit.		1. How does MMS envision participating in an audit as just as an observer? These seem to be contradictory terms. If MMS is merely going to observe and not do or say anything, then perhaps better wording would be “Representatives from MMS may observe your SEMS	

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		<p>audit.” Further, if MMS is going to simply observe, what is the purpose of observing the audit?</p> <p>2. The wording in this section also seems to indicate that the SEMS audit will be conducted in a meeting style; otherwise, how will MMS observe the audit?</p>	
<p>(c) You must submit a report to the RSFO within 30 days of the audit completion date. The report must outline the results of the audit including deficiencies identified, a timetable or schedule for implementing corrections to deficiencies, and the person responsible for correcting each identified deficiency including their job title.</p>		<p>1. When does MMS consider the audit to be completed? OOC considers the audit to be completed when the final audit report is issued.</p> <p>2. Given the language in (d) below, it appears that MMS does not envision receiving the actual SEMS audit report.</p>	<p>(c) You must submit a report to the RSFO within 30 days after the issuance of the final SEMS report by your designated and qualified personnel or your independent third party. The report need not be the full SEMS report but must outline.....</p>
<p>(d) The MMS may verify that corrective actions have been undertaken and that these actions effectively address the audit findings. Upon request, you must make available for MMS review: (1) Your SEMS program, including information about your contractors; (2) The qualifications of your designated and qualified</p>		<p>1. What does MMS envision as the difference between verifying corrective actions from an audit in §250.1910(d) and §250.1913?</p>	

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personnel or your independent third party; (3) The SEMS report prepared by your designated and qualified personnel or your independent third party; (4) The SEMS audits conducted of your program; and (5) Other supporting documents or information.			
(e) You must retain copies of either the independent third party's SEMS records or self audit for a period of 5 years.		1. What is the purpose of retaining copies of the audit for 5 years, when the program has to be audited every 3 years?	(e) You must retain copies of either the independent third party's SEMS records or self audit for a minimum period of 3 years or until the completion of the next audit.
§250.1911 What are my documentation and recordkeeping requirements?			Note: We recommend that the prescriptive language be replaced with the following: "Your SEMS program procedures and documents must be maintained in accordance with API RP 75 Section 13—Records and Documentation."
(a) Your SEMS program procedures must ensure that records and documents are maintained for a period of 5 years in an effective manner. Effective document and record control includes the means of identifying, collecting,	API RP 75 covers Records and Documentation in Section 13 This section seems out of sequence in the prescriptive rulemaking and should either be before or after all of the audit discussion instead of in the		

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indexing, filing, storing, maintaining, and retrieving the documents and records.	middle of the audit discussion.		
(b) Records must be dated, signed, and include information on compliance with applicable legal requirements and the results of SEMS audits and reviews. Details of deficiencies, corrective and preventative actions, participation in training, permits, licenses, or other forms of legal authorization, inspection and calibration activity, and results of operational controls (maintenance, design, and manufacture) should also be included.			
§250.1912 What qualifications must an independent third party or my designated and qualified personnel meet?	API RP 75 covers the audit team in Section 12.		Note: We recommend that the prescriptive language be replaced with the following: “You must audit your SEMS program in accordance with API RP 75 Section 12-Audit of Safety and Environmental Management Program Elements.”
(a) An independent third party or designated and qualified personnel must possess the following qualifications:			

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<p>(1) Previous experience with SEMS, or similar management related programs;</p> <p>(2) Technical capabilities of the individual or organization for the specific project;</p> <p>(3) In-house availability of or access to technology, including computer programs or hardware to be used for this specific project;</p> <p>(4) Ability to perform the independent third party functions for the specific project considering current commitments;</p> <p>(5) Previous experience with MMS regulatory requirements and procedures; and</p> <p>(6) Procedures to avoid conflicts of interest with the SEMS program they are reviewing.</p>			
<p>(b) You must document the qualifications for the independent third party or your designated and qualified personnel.</p>			
<p>(c) The MMS reserves the right to evaluate independent third parties as needed.</p>		<p>1. When will MMS evaluate the independent third party? Before or after they are used for a SEMS audit? What is the evaluation criteria?</p>	

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		2. If MMS find deficiencies in the third party and they have already performed a SEMS audit, does that put the audit results in jeopardy or require a new audit be performed?	
§250.1913 How will MMS determine if my SEMS program is effective?			
(a) The MMS or its authorized representative may evaluate or visit your facility to determine whether your SEMS program is in place, adequate, and effective in protecting the safety and health of workers, the environment, and preventing incidents. These evaluations or visits may be random or based upon the OCS lease operator's or contractor's performance.		1. "Adequate" and "effective" are very subjective terms. What criteria will MMS utilize to determine if a plan is adequate and/or effective? Many operators currently have well developed plans, but may still have injuries and incidents. Would these plans be deemed adequate and effective?	(a) The MMS or its authorized representative may evaluate or visit your facility to determine whether your SEMS program is in place and being followed. These evaluations or visits may be random or based upon the OCS lease operator's or contractor's performance.
(b) The MMS or its authorized representative may evaluate your SEMS program, including documentation of contractors, independent third parties, and designated and qualified personnel, and audit reports to assess your SEMS program. (1) You must be prepared to explain and demonstrate the procedures and policies		1. What are the qualifications of the MMS representatives conducting these evaluations? Are they familiar with management systems and auditing protocols?	

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<p>included in your SEMS program and produce evidence to support your explanation.</p> <p>(2) The MMS or its authorized representative may conduct a site visit on your facility to verify that personnel are following your SEMS program and can explain and demonstrate the procedures and policies included in your SEMS program and produce evidence to support their explanation for a specific task.</p> <p>(3) If MMS directs you to do an evaluation, you will be responsible for all costs associated with the evaluation of your SEMS program.</p>			
§250.1914 What happens if MMS finds shortcomings in my SEMS program?			
<p>If MMS determines that your SEMS program is not in compliance with this subpart, we may initiate one or more of the following enforcement actions:</p> <p>(a) Issue an Incident(s) of Noncompliance;</p> <p>(b) Require you to revise and submit to MMS your plan to address identified deficiencies</p>		<p>1. We have serious concerns about consistency of enforcement actions. How will MMS ensure the consistency of evaluation?</p>	

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in your SEMS program; (c) Assess civil/criminal penalties; or (d) Initiate probationary or disqualification procedures from serving as an OCS operator.			
§250.1915 What are my responsibilities for submitting OCS performance measure data?	API RP 75 Appendix E— Performance Measures provides definitions used for performance measures.		
You must submit Form MMS–131 on an annual basis, for the previous calendar year, by March 31 of each year.		<ol style="list-style-type: none"> 1. Please provide detailed instructions and examples for filling out MMS 131. 2. Who within MMS is the form to be sent to and by with method....paper, electronic etc. 3. By calendar year, we assume that you mean Jan 1 to Dec 31. If not, please clarify. 4. Please state how MMS will utilize the data. 5. Please include provisions for holding the individual company data confidential. 5. We also point out the authority to require employers to collect and report work-hours and injury/incident data of this type actually rests with the USCG based on the MOU between USCG and OSHA dated 19 December 1979. 	

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		Furthermore, the collection and reporting of injuries and illnesses on the OCS falls under the currently pending USCG rulemaking (RIN 1625-AA18) issued on 27 June 1995 and entitled Outer Continental Shelf Activities. Coordination by MMS with the USCG is recommended to consolidate and coordinate their efforts and avoid any duplication of requirements and unnecessary burdens.	
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