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November 11, 2011

Department of the Interior  
Bureau of Safety and Environmental Enforcement (MS 4024)  
Attn: Rules Processing Team (Comments)  
381 Elden Street  
Herndon, VA 20170-4817

SUBJECT: SHELL COMMENTS ON PROPOSED REVISIONS TO SAFETY AND  
ENVIRONMENTAL MANAGEMENT SYSTEMS (SEMS)  
RIN 1010-AD 73; 76 FR 56683

Shell Exploration and Production Company (Shell), together with its affiliates engaged in offshore exploration and production, is pleased to respond to the subject notice published in the Federal Register on September 14, 2011. Shell is one of the largest leaseholders and producers of oil and natural gas on the U.S. Outer Continental Shelf (OCS), including the Gulf of Mexico and Alaska.

Shell supports the Bureau of Safety and Environmental Enforcement (BSEE) in its pursuit of safety and the SEMS initiative. Safety, pollution prevention, and regulatory efficiency are highly dependent on operator developed and directed safety and environmental management programs. Shell has a long history of actively managing its operations to achieve safety and environmental objectives and improve performance. That notwithstanding, SEMS must be a part of a broader regulatory strategy that provides for a transition to a goal-setting, safety management regime.

We strongly believe that BSEE should consider the comments on this proposal and provide another public comment period accompanied by a one or two-day workshop that would allow the bureau, the regulated community, and other effected agencies to discuss and resolve the following questions and issues:

1. What is BSEE's vision for the regulatory program?

2. What is the strategy for achieving that vision? How does SEMS fit into that regulatory strategy?
3. Does BSEE plan to migrate to a goal-setting regime with less prescription and fewer approvals? If so, what is the plan for making this transition? If not, how is SEMS compatible with the current BSEE regulatory regime?
4. Does SEMS fit with the regulatory strategies of the Coast Guard and PHMSA? If so, has a joint rulemaking or a unified SEMS program been considered?
5. How does SEMS compare with the regulatory regime of international regulators with established (e.g., Norway, UK, and/or the Netherlands) and emerging (e.g., Australia) safety management regimes?
6. What is the experience to-date in implementing SEMS? What has been the experience of a company with an established safety management system (e.g., Shell)? Has the SEMS rule added value? What has been the experience of a smaller company with no prior (formal) safety management program?

Shell manages safety through a combination of rigorous systems and the culture required to make those systems effective. Safety systems essentially fall into two categories: 1) those designed to protect the personal safety of our employees and contractors; and 2) those focused on process safety, or ensuring the safety and integrity of our operations and assets.

Personal safety systems include clear and firm rules. At Shell, we have 12 Life-Saving Rules. These are simple “do’s and don’ts” covering activities with the highest potential safety risk. Our employees and contractors must comply with these rules. Failure to do so is a choice not to work for Shell. This has been fundamental in reducing accidents. Personal safety systems can be tracked through mechanisms such as incident rates and participation in processes such as Job Safety Analyses.

Process safety is managed through a variety of tools, such as:

- well and facility design standards;
- established “operating envelopes” not to be exceeded;
- maintenance and inspection intervals for safety critical equipment; and
- an effective Management of Change (MOC) process.

Our approach also requires that our drilling contractors develop a Safety Case to demonstrate major risks are properly managed. An HSE or Safety Case in deepwater drilling includes:

- how we identify and assess the hazards on the rig;
- how we establish barriers to prevent and control the hazards; and
- how we assign the critical activities needed to maintain the integrity of these barriers.

The HSE case guides the rig and crews in risk management and ensures staff competency, especially for those new to the rig. The Case is owned by the drilling contractor but is closely reviewed by Shell before we place the contract, assured in practice before rig operations begin, and is audited at regular intervals while the rig is under contract to us.

The HSE Case also includes bridging documents to our HSE Management System. Through these, the drilling contractor works closely with Shell as the operator to ensure the well plan and operations procedures are understood by both parties and provides assurance that top hazards and risks are properly managed. For example, our Pressure Control Manual requires at least two barriers in place to control each hazard. Last year, while abandoning a well in deepwater, we found a secondary

mechanical barrier did not pass our test; therefore, work was stopped and we installed a second redundant mechanical barrier before proceeding with the job.

Defined rules such as these are clearly important, but an organization with all the right systems and tools in place to manage and reduce risks to people and processes will fall short if it does not also have a culture where safety is seen and felt in every aspect of the organization. The systems, processes and culture must all work together.

Building a safety culture starts with leadership, and this is actually the first element of Shell's HSE Management System – to create and sustain a culture to drive our commitment of no harm to people, the environment, our assets, or our reputation. Leaders must be visibly and tangibly engaged in promoting and recognizing safe behaviors and clearly communicate to all employees and contractors that safety is not a priority, but a core value. Priorities can change with the business environment. Core values do not.

### **Approach to SEMS**

We believe U.S. offshore regulators should align better with their international peers. Safety management is a regulatory approach, not an element of a prescriptive regulatory regime. Implementation of the SEMS program must be accompanied not with layers of new regulations and approvals, but with regulatory reform consistent with the international consensus.

BSEE should transition to a safety management regime that is committed to goal-setting, operator (not regulator) responsibility, risk management (not prescription), and regulatory oversight (not regulator command-and-control). BSEE should begin the transition with a pilot project as proposed in the 2006 SEMS ANPR. The pilot should offer a less prescriptive regime for operators with comprehensive safety management programs and excellent performance records. We believe the pilot could be established under the alternative procedures provisions of 30 CFR 250.141. As indicated in our response to the SEMS ANPR, Shell has an interest in being considered for such a pilot and would be happy to further discuss the terms of the program with BSEE representatives.

The SEMS II proposed rule is not consistent with the goal-setting philosophy critical to safety management regimes. BSEE should allow operators to establish audit programs, JSA criteria, employee input programs, stop work procedures, and facility management procedures that are best suited to their organization and culture. There is no single correct approach to organizing and managing safety programs. BSEE should encourage operators to follow practices that are best for their particular circumstances, and monitor the operator's performance to evaluate their success. Day-to-day management decisions should be left up to the responsible company.

### **SEMS Applicability**

To be effective, Safety management principles and SEMS programs should apply to all of an operator's OCS operations, not just those regulated by BSEE. Operators should not be asked to develop multiple management programs to satisfy a variety of regulators. The SEMS II preamble suggests that companies review various MOUs and MOAs for guidance, but these documents are full of ambiguity. The reality is that there is no clear delineation of responsibilities among the regulators. In light of this ongoing regulatory confusion, it is all the more important that operators have safety management systems that cover all of their activities. Otherwise, there is a high potential for dangerous gaps, overlap, and confusion.

Rather than increase safety risks and costs by further complicating the OCS regulatory regime, we recommend that the BSEE, BOEM, Coast Guard, and PHMSA agree on a common regulatory strategy for all OCS facilities. This strategy should provide for a transition to a goal-setting, safety management regime.

In conclusion, we are hopeful that these comments will assist BSEE in development of a revised SEMS rule that will transition the U.S. OCS regulatory system to a goal-setting, safety management regime and better align with international best practices. Please see our comments on specific sections attached. We believe further dialogue between the affected government agencies and the regulated community is essential to achieving this objective. In the final analysis, this rulemaking must accomplish the goal of making OCS operations safer, reduce regulatory complexity and waste, and allow the U.S. to expeditiously explore and develop its natural resources.

Kind regards  
Shell Exploration & Production Company

A handwritten signature in black ink, appearing to read "Kent Satterlee, III". The signature is stylized with a large, sweeping "K" and "S".

Kent Satterlee, III  
Manager Regulatory Policy - Offshore  
Upstream Americas

Attachment

## ATTACHMENT

### Comments on Specific Sections

**250.1911 - JSAs:** Details about who conducts and approves JSAs should be determined by the operator. There are many effective methods for conducting these analyses.

The proposed rule seems to require a JSA for almost any activity. This is unnecessary and may discourage employee support for JSA programs. We are also concerned that ownership of the JSA process has shifted in its entirety from the contractor to the operator. In many cases, the operator should be overseeing, not directing, contractor activities.

We also disagree with the requirement that the PIC sign all JSAs. The PIC for the facility is the OIM who, in the case of production platforms, is typically well versed in production, not well operations. The person directly in charge of the specific operation is the person most knowledgeable about the activity and should sign the JSA on behalf of the operator.

Finally, as proposed in the NPR, the operator is directly responsible for hazard identification training for contract employees. In our view, this provision is ill advised. Rather than directly manage the training of contractor employees, the operator should verify that contractors are effectively managing their competency programs.

**250.1926 - Audits:** Shell supports third party audits of management programs and is working closely with the new Center for Offshore Safety to provide such capabilities. However, the number of qualified third-party auditors is not presently sufficient to meet the SEMS audit demand. We, therefore, recommend that BSEE phase-in the third party auditing requirement over a five-year period. During the phase-in period, operators should be allowed to satisfy the requirement using qualified internal auditors in accordance with procedures described in their SEMS programs.

While Shell concurs with the third party auditing requirement, we believe internal corporate audits can be equally effective. The CVA program for deepwater structures provides ample evidence that third party reviews are not a panacea.

The requirement that BSEE approve third party auditors is inconsistent with safety management principles. SEMS programs should be directed by the operator, not the regulator, and we fail to see how BSEE approval would add value. If you don't have confidence that an operator will make good decisions about auditors, you have broader performance concerns that should be addressed directly with that company. Don't restrict the entire industry because of concerns about a few companies.

**250.1930 - Stop Work Authority:** While we strongly support Stop Work programs and have effectively implemented them within Shell, every organization is different and these programs must be tailored to fit the culture and circumstances of the company.

The requirement that the OIM approve the resumption of work after a “stop the job intervention” could have the unintended effect of discouraging employee stop-work actions. In our view, either the OSR (Foreman) or OIM should be able to approve the resumption of work. Shell encourages stop-the-job interventions and they occur quite often. However, many of these work stoppages are quite minor, and requiring OIM approval to resume work might discourage these important employee initiatives. This would have a negative effect on the safety culture.

**250.1931 – Ultimate Work Authority:** The designation of a person with UWA is an important issue requiring the attention of industry and the regulators. The designation is more difficult for MODUs, and confusion about the “person in charge” was evident in both the Montara and Macondo incidents. API Bulletin 97, Well Construction Interface Document, provides a framework for UWA designations. However, we believe further dialogue on this important issue is warranted. We recommend that BSEE and the Coast Guard hold a public workshop to discuss the pertinent issues and seek an industry-regulators consensus on the UWA designations for MODUs.

**250.1933 - Employee reporting of possible violations to the regulators:** Employees have always had the right to report possible violations or unsafe conditions directly to the regulator, and we have no objection to such reporting. However, this reporting provision does not belong in the BSEE SEMS regulation or in operator-managed SEMS programs. Among the goals of SEMS programs are improving internal communication, encouraging teamwork, providing continuous feedback to supervisors and employees, and promoting a safety culture. Raising concerns directly to the regulator, without first discussing them internally, would be detrimental to an organization’s safety culture and inconsistent with safety management principles.