



Erik G. Milito
Senior Counsel
API
1220 L Street, NW
Washington, DC 20005-4070
Telephone: 202-682-8273
Fax: 202-682-8033
Email: militoe@api.org
www.api.org

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Department of the Interior
Minerals Management Service
Attn: Regulations and Standards Branch (RSB)
381 Elden Street, MS-4024
Herndon, Virginia 20170-4817

Re: Docket ID: MMS-2007-OMM-0074
Royalty Relief for Deepwater Outer Continental Shelf (OCS) Oil and Gas Leases
Conforming Regulations to Court Decision

The American Petroleum Institute (API) hereby submits its comments on the proposed rule, "Royalty Relief for Deepwater Outer Continental Shelf (OCS) Oil and Gas Leases-Conforming Regulations to Court Decision," 72 Fed. Reg. 72652 (December 21, 2007). API represents more than 400 member companies involved in all aspects of the oil and natural gas industry, including exploration, production, transportation, refining and marketing. API member companies are subject to the regulations of the Department of the Interior and Minerals Management Service pertaining to mineral revenue management and the valuation and payment of royalties. Therefore, API and its member companies have a direct interest in this rulemaking.

API and its member companies support amending 30 CFR parts 260 and 203 to conform the regulations to the decision of the United States Court of Appeals for the Fifth Circuit in *Santa Fe Snyder Corp., et al. v. Norton*. In *Santa Fe Snyder*, the court found that 30 C.F.R. 260.112-117, which the Department of the Interior promulgated in 1998 pursuant to the Deep Water Royalty Relief Act of 1995 ("Royalty Relief Act"), violated the statute and thus were unlawful. Specifically, the court found that the regulations unlawfully reduced the volumes of royalty-free production below the minimum volumes guaranteed by Section 304 of the Royalty Relief Act. The regulations diluted in two ways the total volume of royalty free production to which each lease is unambiguously entitled: first, by only allowing royalty relief for "new production" (i.e., production from a field that had not produced before the Royalty Relief Act was passed), and second, by allocating royalty relief on a "field" basis rather than a "lease" basis.

Although the court declared the regulations to be unlawful in 2004, the regulations have remained in place. Therefore, it is necessary for the Department of the Interior and Minerals Management Service to amend its regulations to conform to the Congressional intent and the *Santa Fe Snyder* ruling. Without these amendments, the regulations continue to contain illegal provisions and bring confusion to readers of the regulations. In order to correct the regulations,

API supports the Department of the Interior's proposal to amend its regulations for the proper treatment of leases issued under Section 304 of the Royalty Relief Act.

API appreciates the opportunity to comment on this notice of proposed rulemaking. If you have any questions concerning API's position, please contact Erik G. Milito at 202-682-8273.

Sincerely,

A handwritten signature in cursive script that reads "Erik G. Milito".

Erik G. Milito