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April 14, 1997

Department of the Interior
Minerals Management Service
Mail Stop 4700
381 Elden Street
Herndon, Virginia 20170-4817

Attention: John B. Mirabella
Chief, Engineering and Standards Branch

Re: MMS Proposed Revision of 30
CFR Part 251 - Geological and
Geophysical Exploration of the Outer
Continental Shelf

The Offshore Operators Committee (OOC) appreciates the opportunity to provide comments on the referenced proposed regulations. OOC is a trade association of 84 oil and gas operators responsible for most of the hydrocarbon production in the Gulf of Mexico. Comments made by OOC are without prejudice to individual companies or other associations having or expressing differing views.

OOC concurs with comments by the American Petroleum Institute (API) and the International Association of Geophysical Contractors (IAGC) on the proposed regulations.

OOC offers the following comments to emphasize our position further.

We are quite concerned about the proposed clarification of the meaning of the terms "transfer" and "third party". MMS states that these are not new requirements. Yet, MMS is well aware of the recent effort to arrive at an accommodation between MMS and the industry as to the meaning of "permittee" under the current regulations in connection with the use of that term relative to parties responsible for providing data to the MMS.

As a result of several meetings between MMS and industry two or so years ago trial procedures were developed for leasing to assure that MMS has needed data without resorting to a challenge as to the meaning of "permittee". In this proposed revision of the regulations, MMS has ignored the work previously done between MMS and the industry on this point. This has been done without any opportunity for dialog as to how the leasing trial procedures have worked.

In the earlier discussions with MMS, the reasoning why licensees of data are not "permittees" was presented to MMS. The trial procedures were developed with regard to that reasoning. Yet, in the introduction to the proposed revision, MMS totally disregards the reasoning, disregards the views of many in industry, and glosses over the issue by stating:

"These clarification's are not new requirements. MMS routinely obtains G & G data and information from permittees and third parties to whom data and information were transferred by a permittee."

Such is not the case. This proposed "clarification" is a major change in the regulations which has significant impact on the industry. For the reasons cited to the MMS when the leasing trial procedures were developed, we strongly urge MMS to hold this proposal in abeyance and initiate dialog with the industry as to the impact of the trial procedures on the MMS data needs.

OOC is also concerned about the reporting burden which the proposed regulations will impose on the industry. The introduction to the proposal estimates that the annual respondents' cost is \$371,140. The assumptions going into this estimate are not set forth; yet, simply looking at proposed Section 251.11(a)(l) indicates that this burden has not been thoroughly considered. This section will literally require that a daily report be submitted to the MMS because geologic data of various types, acquired under a permit, are analyzed, processed, or interpreted virtually every day in exploration and production operations. This reporting burden is unreasonable and must be omitted.

We also point out to you that the monthly reporting of which entities are licensing data will be available to the general public. There is not a requirement that this information be maintained on a confidential basis by MMS. Such a listing will give competitors current information as to the areas of interest of the entity licensing the data. This will have a chilling effect on exploration in that an entity, before acquiring a license to use such data, must fully consider the ramifications of publicly disclosing its interest in the area. Current licensing confidentiality provisions must be maintained.

Section 251.11 of the proposed regulations has other issues which have never been previously raised by MMS. Subpart (b)(1) would require a permittee to give MMS a description of "each operation of analysis, processing, and interpretation". This language indicates that MMS, in addition to the data itself, now wants the permittee to provide MMS with permittee's proprietary technology used in oil and gas exploration and development. And, after receiving such information MMS says in Section 251.14 that it will, at best, release it to the public ten years after its receipt if it can be argued successfully that the technology is really geological data for purposes of the definitions. Notwithstanding the protestation to the contrary set forth in the introduction to the proposal, we submit that this may well be a government action capable of interfering with protected property rights. MMS must omit this request for proprietary technology.

There is also a questionable burden imposed on a permittee under proposed Section 251.12(c)(3). This subsection mandates that all processed geophysical information be submitted in a form "reflecting state-of-the-art processing techniques." Only if the MMS otherwise agrees may such information be submitted in less than "state-of-the-art processing techniques". There are two problems with this. First, for MMS to know whether "state-of-the-art" techniques are used, it will require the permittee to provide full particulars on how the processing was accomplished, the so called "black box" of processing. But, in many cases, the black box will consist of proprietary technology developed by or for the entity which commissioned the processing. Again, MMS appears to be seeking with this requirement more than data. As with proposed Section 251.11, there is a real question as to whether MMS will even be bound to keep this technology confidential and not disclose it to the public. MMS must also omit this request for proprietary technology.

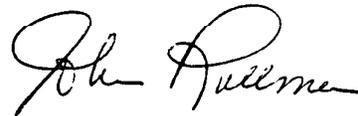
The second problem with Section 251.12(c)(3) is the fact that the permittee reprocessing the data may choose to do so at a standard which does not reflect "state-of-the-art" techniques. MMS, under this proposal, mandates a version processed to different standards and the entity must arrange for reprocessing to the "state-of-the-art" standards. The entity, however, only recovers the "reasonable" costs (as determined by MMS?) and not necessarily its actual costs and then only if the data were initially processed as would normally be done by the entity. Given that processing standards may vary from site to site and may vary based on the quality of the data, the entity seeking to recover the costs of processing for the benefit of the MMS is faced with an impossible hurdle to show what it would do "in the normal conduct of business." Again, there is a substantial question as to whether the government can mandate that it be provided a service without proper compensation for that service.

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Because of the seriousness of the concerns set forth above and to assure that any other issues which may arise in developing workable regulations can be addressed, we urge that MMS discuss these proposed regulations with industry before a final rule is adopted.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Fullmer".

for Virgil Harris
OOC Executive Director

c - Genevieve Laffly Murphy - API
Charles F. Darden - IAGC