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Department of the Interior
Minerals Management Service -- Mail Stop 4024
Attention: Rules Processing Team (RPT)
381 Elden Street
Herndon, Virginia 20170-4817

Submitted in Triplicate

To Whom It May Concern:

I am responding to the notice of proposed rulemaking that appeared in the 17 May 2002 Federal Register regarding the requirements and processes for submitting various plans and information for Minerals Management Service (MMS) review and approval before a lessee or an operator may explore, develop, or produce oil and gas and sulphur in the Outer Continental Shelf (OCS).

I commend the MMS for issuing this proposed rule – it is long overdue. It is appropriate for MMS to provide the public with notice and an opportunity to comment upon the conditions it imposes on lessees and operators. Too many of MMS's requirements have been promulgated in the form of notices to lessees and operators (NTLs) or worse, draft NTLs, either at a Regional or Headquarters level, leaving the public with no opportunity to comment on the adequacy of these requirements to protect either the environment or the nation's resources. While MMS asserts that it issues NTLs only when necessary, it proposes issuing a 30-page NTL after this rule is published. This action, by itself, would seem questionable; however, when one reviews the proposed NTL, it is clear that MMS's purpose is to provide "guidance" exempting lessees and operators from provisions of the final regulations – not to interpret them – such exemptions mainly address environmental requirements and are not in the public interest.

MMS must develop a consistent national approach and not allow it to be subverted by either national or regional NTLs, whether they add requirements or provide exemptions. Both the public and the regulated lessees and operators have a right to expect the MMS to adhere to the Administrative Procedures Act in the development and promulgation of regulatory requirements. If MMS does its job in properly writing this regulation, there should be little need, if any, for it to issue a NTL explaining the new rule. There is absolutely no need, or excuse, for MMS issuing a NTL such as has been proposed, which would immediately subvert the intent of the revised regulations.

Promise them anything, but give them . . . With the exception of air quality/climate change information, the proposed rules require what appear to be a reasonable minimum package of environmental planning information to be submitted, given that the MMS itself performs the environmental impact assessments under which activities are conducted; however, the rules do not require monitoring to assure that the assumptions underlying the applications and EIS are valid. MMS should require cumulative environmental reports on each permitted activity to ascertain if the actual environmental performance is consistent with planning documents. With regard to air quality/climate change information, MMS should not exempt any facilities from a requirement to state how they will assure that operations are within the emissions planning levels of the application. MMS should also require planning documents to address greenhouse gases and should establish a monitoring system to assure that the greenhouse gas emission levels in the planning documents are not exceeded.

MMS should establish a means of requiring mitigation where environmental performance fails to meet the criteria established by the planning documents. To facilitate mitigation, lessees and operators should be permitted, upon request, to consolidate the environmental aspects of approved permits to develop a

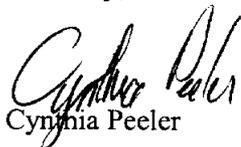
comprehensive environmental management strategy. MMS should also consider establishing an emissions/discharge-trading program. In addition to each operator/lessee being required to monitor and assess their environmental performance against their planning documents,

MMS should annually assess the consolidated environmental performance of lessees and operators against the performance baseline established in its environmental impact statements and should make the results of this assessment available to the public. In short, both MMS and individual operators and lessees should be working under a comprehensive environmental management plan.

MMS should include in the new regulations, provisions giving force to 43 USC 1347(b) requiring the use of best available and safest technologies and establishing a process by which MMS will determine that a particular technology is not economically feasible, and therefore need not be employed. Each applicant should be required to certify that their proposed plan uses such technologies. I do not understand why the provisions of the existing §203(b)(19) have not been included in the proposed rule.

With regard to conservation information, MMS should promulgate the criteria used to evaluate conservation information documents. The public has a right to know whether MMS is permitting lessees and operators to simply pick the low-hanging fruit. Clearly, oil and gas production is a classic example of an activity where returns can be expected to diminish and costs rise and at some point it is not longer economically feasible to continue development of the resource. However, it also must be acknowledged that if the infrastructure used to produce the resource is allowed to be shut-in, the costs to return the resource to production will rise dramatically. MMS should report, for each well that is allowed to be shut-in, the flow rates and estimated reserves remaining at the time of abandonment and an estimate of the marginal lifting cost (\$ per next barrel of production) at the time of abandonment. Publishing such reports would not only assure the public that development of their resources was not being prematurely abandoned, it would assure individual lessees and operators that they were receiving equitable treatment. Further, it would permit those investigating new technologies a basis for determining whether or not their technologies might prove to be economically feasible.

Sincerely,



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