

98-4N "Interim Guidance 'Simplified Fatigue Analysis' Procedure."

The two NTLs to be cancelled were published in cooperation with the API RP 2A industry workgroup to provide guidance on either applying or recalculating certain design criteria specified in the 19th and 20th editions of API RP 2A. There were certain insufficient or erroneous design criteria in both the 19th and 20th editions of API RP 2A related to various structures and the water depths and wind conditions in which they were to operate. Once the 21st edition of API RP 2A is incorporated into the regulations, the NTLs will not be necessary.

#### Discussion and Analysis of Comments

Eight organizations submitted nine comments on the proposed rulemaking. Commenters included the American Bureau of Shipping (ABS); the Offshore Operator's Committee (OOC); Shell Exploration & Production Company (Shell), which commented twice; the Independent Petroleum Association of America (IPAA); the National Ocean Industries Association (NOIA); ChevronTexaco; Newfield Exploration Company (Newfield); and ATP Oil & Gas Corporation (ATP). In all, MMS identified 22 issues raised by these respondents. Nearly all are either related to adoption of the other eight industry standards covered in the December 27, 2001, NPR; the approval procedures for floating production platforms; or the proposed rewrite of Subpart I. All of these comments will be discussed in a separate final rule.

Industry has had years of experience applying API RP 2A on the OCS, and no respondent objected to the adoption of the 21st edition of API RP 2A. The ABS raised one technical issue related to its adoption, as follows:

The document adopts the API-RP2A-WSD [working stress design]. Is the API-RP2A-LRFD [load and resistance factors design] not acceptable at this time for any application? Some of the requirements in API-RP2A-LRFD, such as hydrostatic collapse of tubular members for deepwater applications, may be more reasonable than those in WSD. If acceptable, guidance in the regulations should specify load and resistance factors.

Since the early 1980s, MMS has followed the policy currently outlined in §§ 250.141 and 250.142 of our operating regulations, whereby we promote the use of technology or innovative practices that are not necessarily covered in our regulations. For example, § 250.141 tells the lessee or operator that "You may use alternate procedures or equipment after receiving approval as described in this section." The approval must be in writing from

either the MMS District or Regional Supervisor. Paragraph (a) of § 250.141 requires that "Any alternate procedures or equipment that you propose to use must provide a level of safety and environmental protection that equals or surpasses current MMS requirements." Paragraph (c) of § 250.141 requires that the lessee or operator submit information or provide an oral presentation to describe the site-specific applications, performance characteristics, and safety features of the alternate procedures or equipment. Also, under § 250.142, the lessee or operator may submit a written request to the District or Regional Supervisor for an approval to depart from current MMS operating regulations.

Thus, if a lessee or operator believes that the load and resistance factor design (LRFD) version of API RP 2A is more appropriate for its proposed platform than the working stress design (WSD) version, the lessee or operator may submit its arguments to use the former under §§ 250.141 and 250.142 of MMS operating regulations.

#### Procedural Matters

##### *Regulatory Planning and Review* (Executive Order 12866)

This document is not a significant rule and is not subject to review by OMB under Executive Order 12866.

(1) The rule will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The overall effect of the rule will not create an adverse effect upon the ability of the United States offshore oil and gas industry to compete in the world marketplace, nor will the rule adversely affect investment or employment factors locally. The economic analysis for this rule is available from the Department of the Interior; Minerals Management Service; Operations Analysis Branch; Mail Stop 4022; 381 Elden Street; Herndon, Virginia 20170-4817; Attention: Carl W. Anderson.

(2) This rule will not create inconsistencies with other agencies' actions. This rule does not change the relationships of the OCS oil and gas leasing program with other agencies' actions. These relationships are all encompassed in agreements and memorandums of understanding that will not change with this rule.

(3) This rule does not alter the budgetary effects or entitlements, grants,

user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues. There are precedents for actions of this type under past lease stipulations and regulations dealing with safety provisions under the OCS Lands Act.

##### *Regulatory Flexibility (RF Act)*

The Department of the Interior certifies that this proposed rule will not have a significant economic effect on a substantial number of small entities under the RF Act (5 U.S.C. 601 *et seq.*). This rule applies to all lessees that operate on the OCS. Small lessees that operate under this rule would fall under the Small Business Administration's (SBA) North American Industry Classification System Codes 211111, Crude Petroleum and Natural Gas Extraction and 213111, Drilling Oil and Gas Wells. For the purposes of this section, the "small entity" is considered to be an individual, limited partnership, or small company, considered to be at "arm's length" from the control of any parent company, with fewer than 500 employees. Mid-size and large corporations and partnerships under their direct control have access to lines of credit and internal corporate cash flows that are not available to the "small entity." Some of the operators MMS regulates under the OCS oil and gas leasing program are considered small entities. We estimate that of the 130 lessees that explore for and produce oil and gas on the OCS, approximately 90 are small businesses (70 percent). The 21st edition of API RP 2A will reduce the costs of new platforms to these lessees, because the 21st edition allows lower-cost design criteria for platforms that have lower "consequences of failure." Thus, an unmanned platform can be built with lower-cost design criteria than a manned platform. Under the 19th and 20th editions of API RP 2A, both unmanned and manned platforms had to be built under high-cost design criteria. Therefore, MMS concludes that this final rule will have a beneficial effect on small operators.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734-3247.