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David B. Struhs
Secretary

December 13, 2002

Ms. Kumkum Ray
Department of the Interior
Minerals Management Service
Mail Stop 4024
381 Elden Street
Herndon, VA 20170-4817

Attention: Rules Processing Team

Re: U. S. Department of the Interior -- Minerals Management Service -- Federal Register
Vol. 67, No. 96 -- Notice of Proposed Rulemaking for Oil and Gas and Sulphur Operations in the
Outer Continental Shelf -- Plans and Information.

Dear Ms. Ray:

Pursuant to Presidential Executive Order 12372, Governor's Executive Order 95-359 and the National Environmental Policy Act (NEPA), the State of Florida has conducted a review of the Notice of Proposed Rulemaking prepared by the Minerals Management Service (MMS) to amend 30 CFR 250, Subpart B. The proposed rule reorganizes and updates the requirements and processes for submitting exploration, development and production plans and information for MMS review and approval. These plans are required for a lessee or operator to explore, develop and produce oil, gas or sulphur in the Outer Continental Shelf (OCS). The majority of the rule changes are being made to clarify and update operating procedures and processes currently outlined in Notices to Lessees (NTL) and to add major sections that describe Deepwater Operations Plans (DWOP) and Conservation Information Documents (CID). In addition, the revised rule includes a proposal to allow a lessee to submit a comprehensive environmental management plan in lieu of submitting repetitive environmental data and information for each lease or unit in the same/similar environment.

The state has also reviewed the proposed Notice to Lessees and Operators (NTL) of Federal Oil, Gas and Sulphur Leases in the Outer Continental Shelf (OCS), Gulf of Mexico OCS Region. This NTL will provide implementation guidance for the revised 30 CFR 250, Subpart B regulations, specifically the contents of Exploration Plans and Development Operations Coordination Documents and other clarifying information.

In September 2000, the state made recommendations regarding MMS NTL No. 2000-G10, Information requirements for Exploration Plans and Development Operations Coordination Documents for the Gulf of Mexico region (enclosed.) While specific to that NTL, the comments addressed issues that needed to be considered by the MMS in the initial development of a comprehensive and concise revised Subpart B rule. In addition, the state has continued to be actively involved in working to improve information needs and analyses through various revisions to the NTLs that provide guidance for implementing federal regulations in the Gulf of Mexico and in discussions with MMS regarding revisions

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to the Subpart B rule. Throughout this process, the state has reiterated the need for sufficient and adequate information and analyses to thoroughly describe all proposed activities that are part of a plan being submitted to the MMS and affected state(s) and to determine the environmental impacts to marine and coastal resources that may result from both the proposed activity(ies) and accidental events resulting from those activities.

In the background section of the proposed rule, the MMS acknowledges that the information requirements in the proposed rule are necessary not only to support the MMS environmental analyses required pursuant to NEPA, but also to ensure compliance with pertinent federal laws (Coastal Zone Management Act, Clean Air Act, Endangered Species Act, Marine Mammal Protection Act, National Historic preservation Act, etc) intended to protect the marine, coastal and human environment. In order to have the information necessary to make accurate assessments, the operator/lessee must conduct environmental analyses of all activities included as part of a proposed project (e.g., both infield and export pipelines), as well as all potential accidental events that may affect marine and coastal resources. That is, if the activity, either planned or accidental, has the potential to affect resources, the resource and the resulting impacts must be fully assessed. While Florida agrees that general "boiler plate" descriptive environmental information that is not relevant to impact analyses does not need to be provided, in order to conduct adequate environmental impact analyses, the operator/lessee must describe all resources that may be affected.

The notice requested comments on the use of Comprehensive Environmental Management Plans (CEMP) for reducing the repetitive submission of information for leases/units in the same/similar environment and the referencing information. While the state has no fundamental problem with either the use of CEMPs when appropriate, it is important for the MMS to ensure that adequate impact analyses have been conducted for each individual plan. Information contained in the CEMPs will need to be updated as new information becomes available or modified to meet the specific requirements of an individual plan. In addition, it is imperative that any plan or information referenced in a plan be readily available to reviewing agencies and the public.

The proposed NTL for the Gulf of Mexico Region was developed, using the proposed subpart B regulations, to better organize and clarify information requirements. The manner in which social/economic issues are addressed in the NTL is of concern to Florida. The description of requirements in the Environmental Impact Analysis (EIA) section should clearly indicate that, although social/economic factors are not listed in the Environmental Impact Analysis Matrix included in Appendix C, the analysis of impacts to particular resources listed should include a discussion of the economic consequences resulting from impacts. For example, the analysis should include a description of the economic impact(s) that may occur to the Pensacola Beach, Florida area should an oil spill impact that area during the season that the impact could occur. Both the NEPA and the proposed Subpart B rule support this requirement.

At a November 25, 2002, Environmental Impact Analysis Workshop, the Gulf of Mexico Regional staff provided and discussed examples of environmental analyses using a matrix similar to the one provided in the draft NTL. While Florida believes that this method can be effectively used to assess the impacts of offshore activities, the examples given were often cursory and incomplete. For example, discussions of impacts to marine mammals, birds and fisheries did not include discussions of what

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species/groups may be affected and how specific species/groups may be affected. Additionally, the effects of potential spills to coastal resources were recognized as "could cause impacts" but were then always dismissed as being too far away to cause significant impacts. While this may be a reasonable conclusion in some cases, operators should be required to describe and assess all impacts that can occur, as well as actions that may be taken to prevent or minimize impacts.

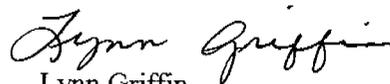
It is our understanding that Deepwater Operations Plans (DWOP), addressed in § 250.288 through 250.295, are prepared to deal with specific deepwater and subsea equipment issues and are required to ensure that the project is being planned in an acceptable manner. However, it is unclear how a DWOP relates to DPP or DOCD for a particular development. Pertinent information regarding the project design, safety issues and environmental impacts of the proposed project addressed in a DWOP should be included in the DPP or DOCD for the project. This information will be necessary for affected states complete their reviews.

The requirements included in the proposed rule are more clear and concise than in the current rule, however, there are several areas in the proposed rule that should be modified to more thoroughly and accurately describe the needed information or analyses. Also, it is important that operators/lessees be aware that information requirements and procedures outlined in the propose rule do not alleviate their responsibility to supply affected states with data and information that has been identified by the affected coastal state(s) as necessary to complete the CZMA federal consistency review. Florida's recommendations for new language to be included in the final rule are shown in bold in the enclosure by specific section of the rule. Comments and clarifying questions regarding the proposed rule are also included in the enclosure. Comments regarding the NTL are included in a second enclosure.

The proposed rule is subject to review under the federal consistency provisions of section 307 of the Coastal Zone Management Act. A consistency determination should be provided to the state prior to final adoption of the rule.

Florida appreciates the opportunity to provide comments on the Notice of Proposed Rulemaking. We will continue to work with MMS and look forward to seeing the recommendations included in this letter and the enclosures addressed in the final rule. In addition, because the proposed NTL referenced in the rule relates specifically to the Gulf of Mexico Region, the state will continue to work with Gulf regional staff to finalize the NTL. If you have any questions regarding these comments, please contact Debby Tucker or me at (850) 245-2163.

Cordially,



Lynn Griffin
Coastal Program Administrator

Enclosures

cc: Lisa Edgar, DEP
George Henderson, FMRI
Chris Oynes, MMS

STATE OF FLORIDA
Comments and Recommended Language Changes
30 CFR 250, Subpart B Proposed Rule
December 13, 2002
(Specific recommended language in bold type)

- 250.200 Definitions. If the decision of make to allow the use of “Comprehensive Environmental Management Plans,” this section should include a complete definition. In addition, there is also a reference to a Comprehensive Environmental Management “Program” in section 250.201(c)(3). References should consistently use “plan” or “program” or both definitions should included in this section.
- 250.200(b) “Ancillary activities means those activities on your lease or unit that: . . . (3) You can conduct without MMS approval of an application or permit **but which are still required to be consistent with the coastal management programs of affected States.**” This review has increased importance because the new designation of “ancillary” activities as those before *and during* oil and gas exploration, development and production activities, could result in environmental impacts that are greater than the previous designation of “preliminary” activities alone.
- 250.201(c)(1) “Sufficient information or analysis is readily available to MMS **for a similar activity and/or a similar environment;**”
- Add the following section **250.201(c)(5): The limiting of information by the Regional Director does not relieve the operator/lessee of the responsibility to supply affected states with the data and information identified by the affected coastal state(s) as necessary to complete the CZMA federal consistency review.**
- 250.201 (d) “*Referencing.* In preparing your proposed plan . . . or that are otherwise readily available to MMS, **other reviewing agencies, affected states and the public.**”
- 250.203(g) “Minimizing environmental risk **and impacts;**”
- 250.205. Discussion of protecting the rights of MMS and adjacent lessees or operators refers to lessees/operators as “objecting.” Are lessees/operators required to file a formal objection to have rights preserved?
- 250.206 (c). *Electronic Submission.* . . . , ask the Regional Supervisor for further guidance. **Electronic submission to affected states will require consultation with the Regional Supervisor and concurrence of an affected state.**
- 250.208 (a)(2) Provide the names of the vessel; . . . ; the **specific** type(s) of operations you will conduct; . . .

- 250.208 (b)(2) The requirement for notification should identify the acceptable means of notification.
- 250.213(g) “A scenario for the potential blowout of the proposed well in your EP that you expect will have the highest volume of liquid hydrocarbons. Include the estimated flow rate, total volume, and **maximum** timeframe associated with the potential blowout.”
- 250.216. The section requires the description of biological, physical and socioeconomic information of an EP “if you obtain” the information. Therefore, only site-specific information actually collected by the operator/lessee would be included. While this information is relevant and necessary, discussions in the environmental impact analyses will require the description of all biological, physical and socioeconomic resources that may be affected by planned and accidental events.

Recommended language based on discussion above: “In developing your EP, ~~if you obtain the following information~~ **you must obtain, if available, the following information or if you conduct a study(ies) to obtain the following information**, you must include a report, or the information obtained, or a reference to such a report or information . . .”

- 250.217(a) *Projected wastes*. Projected quantities of wastes should be provided on a monthly basis for EPs and DOCD’s.
- 250.225(a)(2) “If the onshore support facilities are, or will be located, in areas not adjacent to the Western GOM, provide a timetable for acquiring lands (including rights-of-way and easements) and constructing or expanding them. **Additionally, describe any state or federal permits or approvals, including those for dredging and filling, that would be required for these facilities.**”
- 250.225(c). *Unusual solid and liquid wastes*. Please define “usual wastes.”
- 250.227(b) *Resources, conditions, and activities*. “Your EIA must describe those resources, conditions, and activities listed below that could be affected by your proposed exploration activities, **including any accidental events that may result from those activities**, or that . . .”
- 250.227(c)(1) *Environmental Impacts*. Your EIA must: (1) Analyze the potential direct and indirect impacts (including those from accidents, ~~and~~ cooling water intake structures **and cooling water discharges**) that your proposed . . .”
- 250.241(d) *Production facilities*. A reference is made to “other facilities” the operator will use to conduct proposed development and production activities. How are “other facilities” defined?

Language in this section should be added to clarify that transportation pipelines extending outside of the leased blocks for transporting produced hydrocarbons to other facilities either on or offshore are required information in describing the production facilities.

- 250.243(h) “A scenario for a potential blowout of the proposed well in your DPP or DOCD that you expect will have the highest volume of liquid hydrocarbons. Include the estimated flow rate, total volume, and **maximum** timeframe associated with the potential blowout.”
- 250.247. “In developing your DPP or DOCD, if you ~~obtain the following information~~ **you must obtain, if available, the following information or if you conduct a study(ies) to obtain the following information**, you must include a report, or the information obtained, or a reference to such a report or information . . .”
- 250.247(c) “Socioeconomic information regarding your proposed development and production activities **including related onshore activities.**”
- **250.248(a)(3) Your plans for treating, storing, and disposal of these wastes onshore.**
- 250.261(b) *Resources, conditions, and activities.* “Your EIA must describe those resources, conditions, and activities listed below that could be affected by your proposed development and production activities, **including any accidental events that may result from proposed activities**, or that . . .”
- 250.261(c)(1) *Environmental Impacts.* Your EIA must: (1) Analyze the potential direct and indirect impacts (including those from accidents, ~~and~~ cooling water intake structures **and cooling water discharges**) that your proposed . . .”
- 250.290(b) “The Regional Supervisor may waive the requirement for a Preliminary Part for subsea projects in water depths less than 1,312 feet (400 meters) that are similar to projects previously approved. **In any case, an affected State may require the review of a Preliminary Part, to examine for consistency with the State’s approved coastal management program.**”

STATE OF FLORIDA
Comments/Recommendations regarding the draft (5/17/02)
Notice to Lessees and Operators of Federal Oil, Gas, and Sulphur Leases in the
Outer Continental Shelf (OCS), Gulf of Mexico OCS Region
December 13, 2002

Attachment

Page 6: In the discussion of the use of new or unusual technology, the statement is made that “you may exclude proprietary information from this description.” Is this referring only to geologic proprietary information?

Pages 8 and 9: The discussion of H₂S Plans indicates that an operator could, as one option for an EP or DOCD being submitted to MMS, include a statement that the applicant would submit an appropriate H₂S Contingency Plan before conducting the proposed activities. Florida requires the Contingency Plan to be submitted as part of the information necessary to determine consistency with the Florida Coastal Management Program.

Page 10: (c) Topographic features statement (shunting) The statement is made that operators are required to indicate that drill cuttings and fluids will be shunted through a downpipe that terminates an “appropriate distance” from the bottom. How is the appropriate distance determined? If this information is included in a stipulation, the stipulation should be referenced here.

(e) Live bottoms report (Eastern Gulf of Mexico Planning Area) The text indicates that five copies of the report should be provided. Florida requires 12 copies of all documents and supporting materials, including live bottom survey reports, for determining the consistency of a proposed EP or DOCD with the Florida Coastal Management Program.

Page 15: The discussions under (a) Oil spill response planning (1) should indicate that Sub-regional Oil Spill Response Plans are allowed in the Lease Sale 181 area of the Eastern Gulf of Mexico Planning Area

Page 16: (iv) Worst-case scenario determination. The text should include a requirement for discussing adequate response times, as well as the distance of a potential spill from shore.

Page 23: The discussions of the Environmental Impact Analysis (EIA) should clearly indicate that although socioeconomic factors are not listed in the matrix in Appendix C, the analyses of impacts to environmental resources identified should include a discussion of the economic consequences resulting from the impact on that particular resource(s). For example, the discussions should include a description of the economic impact(s) that may occur to the Pensacola Beach, Florida area should an oil spill impact that area during the season when an impact could affect the resource.

Appendix C – Environmental Impact Analysis Matrix. A definition for “site-specific offshore location” and “vicinity of the offshore location” should be provided. If site-specific is defined as only the block(s) included in the proposed activity, the environmental resources list should be expanded under “vicinity of the offshore location” to include resources such as fisheries, marine mammals and others which could potentially be affected.

“Coastal wildlife refuges” should be changed to “state and federally managed or protected areas.” A footnote could be included to more specifically define these areas as state parks and aquatic preserves, wildlife management areas, estuarine sanctuaries, national wildlife refuges, national seashores, etc.

Footnote 3: The footnote text should clarify that proposed activities could affect habitat that is located in a Low-Relief Live-Bottom Stipulation protected block(s) that is different from the block(s) of proposed activities.