

National Commission on the
BP Deepwater Horizon Oil Spill
and Offshore Drilling

Staff Presentation to the Commission

Environmental Review

December 2, 2010

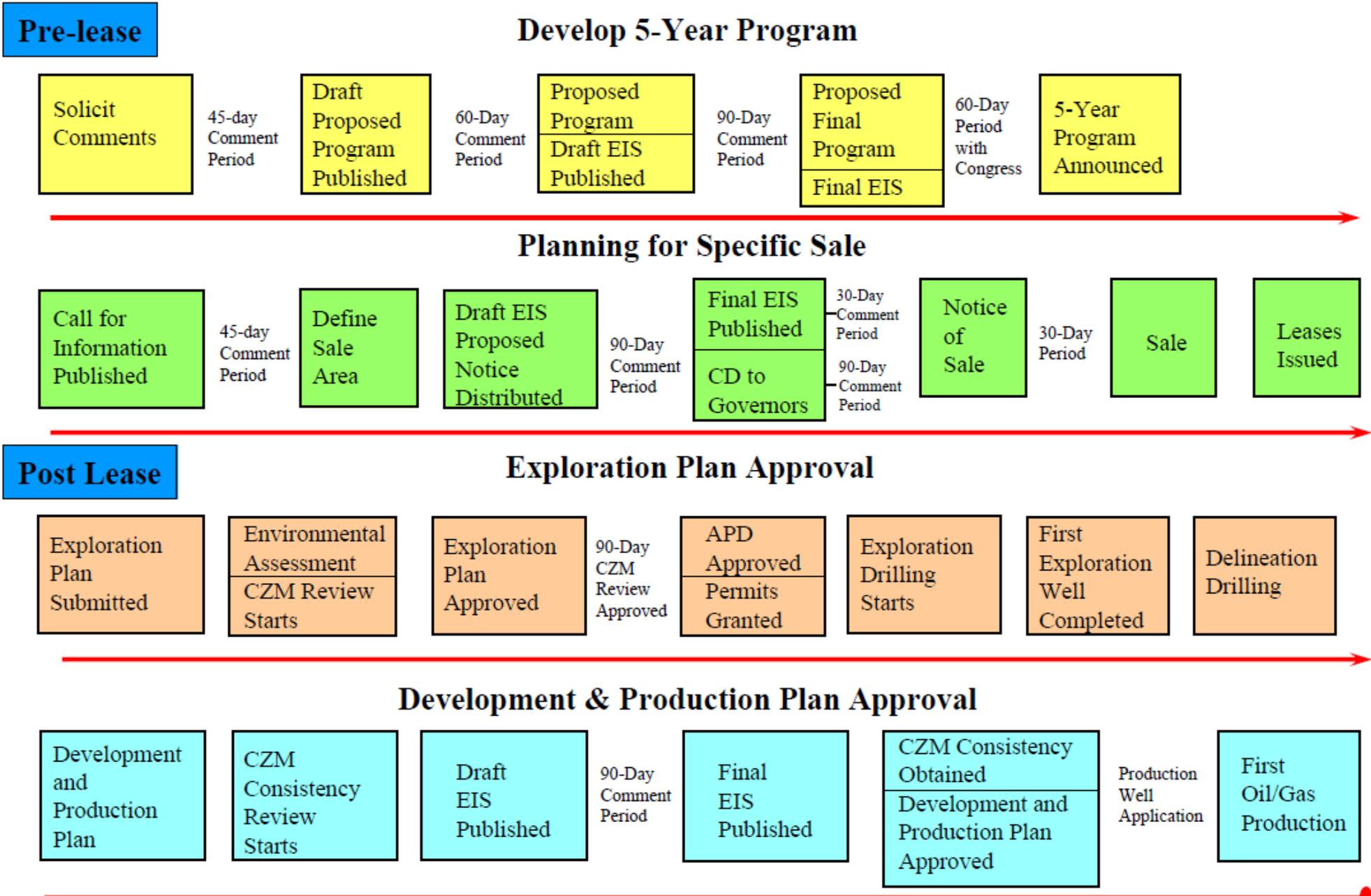
Proposed Staff Recommendation 1

The federal government should seek to reduce risk to the environment from oil and gas activities by strengthening science and interagency consultations in the OCS oil and gas decision making process.

Proposed Staff Recommendation 1: Strengthening Science

- Joint government research program (including NOAA, USGS, etc) to systematically collect data and fill research gaps needed to characterize offshore ecosystems and processes
- Environmental Studies Program reviewed by National Academy of Sciences every 5 years
- Government developed ecological monitoring protocols implemented by industry
- Formal response to NEPA comments submitted by other federal agencies

OCS Oil and Gas Leasing, Exploration, & Development Process



Abbreviations: APD, Application for Permit to Drill; Consistency Determination; CZM, Coastal Zone Management; EIS Environmental Impact Statement

Proposed Staff Recommendation 1: Strengthening Science-Based Consultations

➤ Formal consultation with NOAA at 5-Year Program and leasing stages

Examples of Provisions Affording Outside Agencies Leverage:

- ~~a. Action agency may consult with interested agency~~
 - ~~b. Action agency must consult with interested agency~~
 - ~~c. Action agency must consult and coordinate with interested agency to the maximum extent practicable~~
 - ~~d. Action agency must consult with and respond to interested agency~~
 - e. Action agency must consult with and provide reasons for deviating from recommendations of interested agency
 - f. Adoption of recommendations of interested agency is the structural default, unless action agency gives reasons why doing so is inconsistent with its legal duties
 - ~~g. Interested agency has authority to set standards on a specific topic and action agency must ensure their criteria are “not inconsistent.”~~
 - ~~h. Interested agency must concur before action agency can proceed with proposed or pending action.~~
 - ~~i. Action agency and interested agency are instructed to work jointly to carry out statutory mission (with concurrent and equal say)~~
 - ~~j. Same options as above but exercised through a panel of federal agencies~~
- } current process

Proposed Staff Recommendation 2

The [DOI] NEPA policies, practices, and procedures should be revised and strengthened to improve the level of environmental analysis, transparency, and consistency at all stages of the OCS planning, leasing, exploration, and development process, and to meet statutory compliance.

Proposed Staff Recommendation 2: Improving the NEPA Process

- The bureau of leasing and environmental science should develop and make public a NEPA implementations handbook
- An Environmental Impact Statement should be conducted for Exploration Plans and Development and Production Plans in frontier areas
- Remove the OCSLA 30-day deadline for approval of Exploration Plans. Applications should not be deemed “submitted” until all environmental consultations are complete

NEPA Process

Major Federal Actions	NEPA Document	Leasing and Environmental Science		Independent Safety and Environment Authority		Other Consultations	
		Primary Authority	Review/Comment	Primary Authority	Review/Comment	Cooperating ("co-author") <small>(does not preclude other agencies)</small>	Consulting (review/comment)
Five-Year Leasing Program	EIS	X			X	NOAA	FWS, EPA, States, others [NOAA]
Specific Lease Sale	EIS	X			X	NOAA	FWS, EPA, States, others [NOAA]
Exploration Plan	EIS (frontier areas) EIA/EA/CatEx (otherwise)	X			X	NOAA for frontier areas	FWS, EPA, States, others [NOAA]
Development and Production Plan	EIS (frontier areas) EIA/EA/CatEx (otherwise)	X			X	NOAA for frontier areas	FWS, EPA, States, others [NOAA]

Proposed Staff Recommendation 3

The federal government should create a rigorous, transparent, and meaningful oil spill risk analysis and planning process.

Proposed Staff Recommendation 3: Oil Spill Risk Analysis and Planning

- Improved regulations, guidance, and review process for Oil Spill Response Plans (OSRP)
- Interagency review for OSRP by EPA, NOAA, and USCG
- Incorporate worst-case scenario calculations from OSRP into environmental reviews and consultations
- Credible outside party should review “MMS Oil Spill Risk Analysis” model