Memorandum of Agreement
Between the
Bureau of Ocean Energy Management
And the
Bureau of Safety and Environmental Enforcement

Enforcement Activities

I. Purpose

This Memorandum of Agreement (MOA) establishes the working relationship of the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE) in managing enforcement activities related to non-compliance with laws, regulations, leases, plans, and permits associated with the development of resources on the Outer Continental Shelf (OCS). This includes the full scope of responsibilities of the Bureaus, such as energy development, marine minerals, and other uses of the OCS. This MOA is intended to help both Bureaus minimize duplication of efforts, conserve resources, promote consistency in procedures and regulations, and resolve disputes. A separate Memorandum of Understanding (MOU) describes the general relationship between the two Bureaus. Nothing in this MOA limits either Bureau's authority with regard to enforcement activities.

A. The purpose of this MOA is to agree on the appropriate enforcement activities for which each Bureau will be responsible. The MOA will establish a general framework for the necessary coordination between the Bureaus to ensure a timely, appropriate enforcement response to address noncompliance with laws, regulations, leases, plans, permits, etc. under the jurisdiction of BOEM and/or BSEE. (Regarding renewable energy and according to Secretarial Order 3299, Amendment 2, a Standard Operating Procedure (SOP) will be developed between the Bureaus regarding enforcement activities.)

B. Cooperation between the Bureaus will ensure that each agency's enforcement responsibilities are met with regard to ensuring the safe and environmentally responsible development of ocean energy and mineral resources on the OCS. SOPs will be developed to clarify the process for BOEM to refer a compliance matter to BSEE for potential enforcement and to respond to enforcement actions proposed by BSEE and include a mechanism for sharing necessary data and results of enforcement activities between the Bureaus.

C. Generally, BSEE will take all enforcement actions on behalf of BOEM, except for issuance of office Incidents of Noncompliance (INCs) related to Adjudications, Assignments, Transfers and Subleases, Bonding and Financial Assurance, Qualifications, Conservation Information Documents and Geological and Geophysical (G&G) Permits (excluding violations associated with the regulatory cites and Potential Incidents of Noncompliance (PINCs) listed in Attachment 1). For cases in which both bureaus share responsibility

for enforcement, BOEM and BSEE will coordinate in developing an overall enforcement action plan. BSEE's enforcement responsibilities on behalf of BOEM include, when appropriate, conducting investigations, issuing shut-in orders, and assessment of civil penalties. With regard to environmental enforcement, Attachment 1 lists the BOEM enforcement authorities for which enforcement responsibilities are delegated to BSEE.

D. SOPs will be developed outlining the processes by which BOEM and BSEE coordinate on enforcement actions. This will ensure that BSEE understands the intent of any/all BOEM requirements and that these requirements are effective and enforceable by BSEE. Additionally, BSEE will work closely with BOEM on any enforcement action or recommendation that may lead to consideration for disqualification and/or disapproval or revocation of the designation as an operator or permittee. BOEM will evaluate such recommendations in a timely manner.

E. BOEM will utilize the currently established organizational infrastructure and personnel resources within BSEE (i.e. civil penalty reviewing officers, Investigations and Review Unit (IRU), etc.) for enforcement action as appropriate, as well as the same enforcement policies and guidebooks.

F. BSEE will consult with BOEM during the review of the PINC list to ensure BOEM input with regard to both existing and proposed PINCs. The consultation will include a determination of whether the PINC will be enforced by BOEM or BSEE.

G. BOEM and BSEE will collaborate on the establishment of criteria for BOEM and BSEE field personnel to order the cessation of activity or corrective action for any component, facility, or operation/activity that imminently threatens harm to persons, aquatic life, or significantly impacts any aspect of the environment.

H. This MOA will become fully effective upon its date of signature with the understanding that there are several SOPs that need to be developed in their entirety as well as existing ad hoc processes that need to be formalized in SOPs. In the interim, when a potential for enforcement activity arises, both the BOEM and BSEE Regional Directors and, when appropriate, the applicable headquarters components/programs, shall ensure immediate and maximum coordination between the Bureaus.

II. Authorities

Both BOEM and BSEE derive authority to regulate certain activities on the OCS from the Secretary of the Interior. Both agencies have responsibilities derived from Departmental regulations and delegations of authority issued to implement various statutes, including the Outer Continental Shelf Lands Act, the Oil Pollution Act of 1990, and the Energy

Policy Act of 2005. In Secretarial Order 3299, as amended, the Secretary of the Interior assigned BOEM conventional and renewable energy-related management functions and assigned BSEE safety and environmental enforcement functions. As described in 118 DM 1 and 2, BOEM's authorities and functions include, but are not limited to, activities involving leasing, plans, environmental studies, NEPA analyses, economic and reserves analyses, conservation compliance, G&G permitting, and geologic risk analyses. As described in 119 DM 1 and 2, BSEE's authorities and functions include, but are not limited to, permitting, environmental compliance, conservation compliance, engineering standards and regulations, oil spill response planning and preparedness, inspections, enforcement, and investigations.

III. Objectives

BSEE and BOEM will jointly develop SOPs to implement this MOA for specific types of enforcement action. The functional SOPs for this MOA include, but are not limited to the following:

A. BOEM and BSEE enforcement coordination specific to BOEM issued leases
B. BOEM and BSEE enforcement coordination specific to BOEM approved plans
C. BOEM and BSEE enforcement coordination specific to BOEM issued permits
D. BOEM and BSEE enforcement coordination specific to Renewable Energy activities
E. BOEM and BSEE coordination specific to BOEM processing of BSEE referrals for disqualification or disapproval/revocation of the designation as an operator
F. Environmental compliance, evaluation, and feedback processes for monitoring and mitigation *(Approved June 2012 by BOEM and BSEE Directors)*

IV. Contacts

<u>BSEE</u>
Chief, Office of Offshore Regulatory Programs (HQ)
Chief, Environmental Enforcement Division (HQ)
Chief, Oil Spill Response Division (HQ)
Chief, Investigations and Review Unit (HQ)
Regional Directors
Regional Supervisors
Regional Environmental Officers

<u>BOEM</u>
Chief, Office of Environmental Programs (HQ)
Chief, Office of Strategic Resources (HQ)
Chief, Office of Renewable Energy Programs (HQ)
Chief, Office of Policy, Regulation and Analysis (HQ)
Regional Directors

Regional Supervisors, Leasing and Plans (GOMR and AKOCSR)
Regional Supervisor, Strategic Resources (POCSR)
Regional Supervisors, Environment
Regional Supervisors, Resource Evaluation (GOMR and AKOCSR)

V. Responsibilities

Both Bureaus will develop clear requirements and conditions in leases, plans, permits and other documents to facilitate enforcement. BOEM will share with BSEE all information necessary to initiate timely and appropriate enforcement actions. BSEE shall give BOEM enforcement activities the same priority as similar or related BSEE enforcement activities. Additionally, BSEE will provide feedback to BOEM for the purpose of improving the enforcement of BOEM activities. For any specific case, should BSEE decline to take enforcement action on behalf of BOEM, or if BOEM does not agree with a potential BSEE enforcement action, notice will be provided and, if necessary, the matter shall be raised to the Bureaus' Deputy Directors for action.

VI. Modifications and Interpretations

Modifications to this MOA may be requested by either party and shall take effect upon written consent of both Bureaus' Deputy Directors. Modification of Attachment 1 does not require reissuance of this MOA, but does require and shall take effect upon written approval of both Bureaus' Deputy Directors.

Interpretations of this MOA should be consistent with the stated goals and purpose. For specific types of enforcement actions, Bureaus should clarify their roles and responsibilities in SOPs. The SOPs will be signed by and may be modified with the written consent of both Bureaus.

VII. Signatures

Walter D. Cribbs
BOEM Deputy Director

6-30-2014
Date

Margaret Osher
BSEE Deputy Director

7/14/2014
Date

ATTACHMENT 1
BOEM Environmental Enforcement Authorities for which Enforcement Actions are Delegated to BSEE

PINC Number	Regulatory Cites (30 CFR…)	PINC Statement	Situation or Condition	Enforcement Lead	Governing Agreement
General Operations (G-PINCs)					
G-801	**550.101**	Are operations conducted in accordance with lease stipulations?	For noncompliance with any lease stipulations prescribing avoidances; operational conditions; or monitoring, compliance, or reporting requirements related to any environmental resources or environmentally-sensitive issues.	BSEE Environmental Enforcement Division (EED) in coordination with BOEM OE and BOEM L&P.	• BOEM-BSEE MOU • NEPA/Environmental Enforcement MOA
G-803	**550.280**	Are operations conducted in accordance with approved plans?	For noncompliance with any mitigation measures or Conditions of Approval (CoAs) placed on a plan related to environmental resources or environmentally-sensitive issues discovered through self-reporting, Post-Activity Submittal (PAS) reviewing, or field inspection/ investigation.	BSEE EED (or OSRD specific to OSRPs) in coordination with BOEM L&P and BOEM OE.	• BOEM-BSEE MOU • NEPA/Environmental Enforcement MOA • Environmental SOPs - Touch-Point Interdependencies
Archaeological (G-PINCs)					
G-808	**550.194(a)(1)** **550.194(b)**	Does the archaeological report suggest that archaeological resources may be present and is the location of the site of any operation located so as to not adversely affect the area of the resource?	For noncompliance with oil, gas, and sulfur program regulations, mitigation measures, or Conditions of Approval (CoAs) placed on a plan related to archaeological resources discovered through self-reporting, Post-Activity Submittal (PAS) reviewing, or field inspection/investigation.	BSEE EED in coordination with BOEM OE.	• BOEM-BSEE MOU • NEPA/Environmental Enforcement MOA • Environmental SOPs - Touch-Point Interdependencies

G-809	**550.194(c)**	Does the Lessee's discovery of any archeological resources in the lease area immediately result in halting operations and taking steps to protect significant resources and reporting the discovery to the RD?	For noncompliance with notification and/or cease-work requirements outlined under §550.194(c) discovered through self-reporting, Post-Activity Submittal (PAS) reviewing, or field inspection/investigation.	BSEE EED in coordination with BOEM OE and BOEM L&P.	• BOEM-BSEE MOU • NEPA/Environmental Enforcement MOA • Environmental SOPs - Touch-Point Interdependencies
Geological and Geophysical Exploration PINCs (O-PINCs)					
O-802	**551.6** **551.7** **551.8** **551.9**	Are geological and geophysical activities being conducted in accordance with regulations and an approved permit?	For noncompliance with oil, gas, and sulfur program regulations, mitigation measures, or Conditions of Approval (CoAs) placed on G&G permits related to environmental resources or environmentally-sensitive issues discovered through self-reporting, Post-Activity Submittal (PAS) reviewing, or field inspection/ investigation.	BSEE EED in coordination with BOEM RE and BOEM OE.	• BOEM-BSEE MOU • NEPA/Environmental Enforcement MOA • Environmental SOPs - Touch-Point Interdependencies
O-804	**580.3** **580.20** **580.21** **580.23(a)** **580.25** **580.29**	Are prospecting activities for minerals other than oil, gas, and sulphur on the OCS being conducted in accordance with regulations and an approved permit?	For noncompliance with prospecting for minerals other than oil, gas, and sulfur program regulations, mitigation measures, or Conditions of Approval (CoAs) placed on G&G permits related to environmental resources or environmentally-sensitive issues discovered through self-reporting, Post-Activity Submittal (PAS) reviewing, or field inspection/investigation.	BSEE EED in coordination with BOEM RE and BOEM OE.	• BOEM-BSEE MOU • NEPA/Environmental Enforcement MOA • Environmental SOPs - Touch-Point Interdependencies
Renewable Energy PINCs (T-PINCs) [To Be Developed]					