

**Bureau of Safety and Environmental Enforcement
Interim Policy Document**

Effective Date: February 14, 2012

IPD No.: 2012-03

Series: Environmental Enforcement and NEPA Compliance Program

Title: Environmental Enforcement and NEPA Compliance Program Overview

Originating Office: Environmental Enforcement Division

1. Purpose and Scope. This Interim Policy Document (IPD) establishes Bureau of Safety and Environmental Enforcement (BSEE) policy and responsibilities with regard to environment enforcement and NEPA compliance for activities on the Outer Continental Shelf (OCS).

2. Objective. To provide national guidance specific to the responsibilities and activities of the Environmental Enforcement and NEPA Compliance Program.

3. Authorities. The following statutes provide BSEE with the legal authority to administer the Environmental Enforcement and NEPA Compliance Program:

- A. (43 USC 1331 et seq.) The OCS Lands Act as amended
- B. (30 USC 1701 et seq.) Federal Oil and Gas Royalty Management Act of 1982
- C. (33 USC 2701 et seq.) Oil Pollution Act of 1990
- D. (42 USC 7401 et seq.) Clean Air Act
- E. (42 USC 4331 et seq.) National Environmental Policy Act of 1969

4. References.

- A. (30 CFR 250) Oil and Gas and Sulphur Operations on the OCS
- B. (43 CFR 46) Implementation of the National Environmental Policy Act of 1969
- C. National Potential Incident of Noncompliance (PINIC) List and Guidelines
- D. Bureau Manual, Part 640, Chapter 3, Incident Investigation and Information Management
- E. Bureau Manual, Part 650, Chapter 1, Offshore Inspection Program
- F. Bureau Manual, Part 650, Chapter 2, OCS Civil/Criminal Penalties Program
- G. Civil Penalty Guidebook

5. Definitions. BSEE Environmental Enforcement Division (EED) personnel - All personnel at Headquarters and the Regions (i.e. Regional Environmental Officers, Environmental Enforcement Officers, etc.) who fall under the environmental enforcement and NEPA compliance program.

6. Policy. It is policy that BSEE EED personnel shall ensure the responsible, environmentally sound development of OCS resources. Essential components include NEPA adequacy review; inspections; review and enforcement of industry compliance with environmental laws and regulations, lease terms, and permit requirements. In addition to specific EED activities another essential component of EED success is through communication and coordination within the Bureau as well as with other federal, state, and local stakeholders, industry, and the public at

large. Though the primary responsibility for environmental compliance resides with the operators and their contractors and subcontractors, BSEE EED personnel are responsible for vigorous, but fair, regulatory oversight to ensure environmental compliance. The following are specific to the Environmental Enforcement and NEPA Compliance Program:

A. Organizational Structure.

The BSEE EED consists of the Chief, EED, the Assistant Chief, and administrative support in Herndon, Virginia, and the following personnel who work in the BSEE Regional offices but work directly for BSEE headquarters: the regionally located Regional Environmental Officers, Environmental Enforcement Officers, and all personnel in the Environmental Inspection and Enforcement Unit and Environmental Review Unit. These personnel all report to BSEE EED at headquarters instead of the regions.

B. Statutory Requirements (not all inclusive).

(1) *OCS Lands Act (OCSLA)*. OCSLA requires that the Secretary promulgate regulations for annual scheduled and periodic unscheduled inspections of each facility subject to any environmental regulation to ensure compliance. (43 USC 1348 (c)(1) & (2)) Additionally, it provides general enforcement authority (43 USC 1348(a)), investigation authority (43 USC 1348 (d)), injunctive relief authority (43 USC 1350(a)), and civil and criminal penalty authority (43 USC 1350(b)&(c)).

(2) *Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA)*. FOGRMA requires the Secretary to establish procedures to ensure that authorized and properly identified representatives of the Secretary inspect each lease site producing or expected to produce significant quantities of oil or gas in any year or which has a history of noncompliance with applicable provisions of law or regulation. (30 USC 1711(b)(1)).

(3) *Oil Pollution Act of 1990 (OPA90)*. OPA90 resulted in complementary jurisdictions in several areas between the Department of Homeland Security and the Department of the Interior. The U.S. Coast Guard (USCG) and BSEE have resolved and/or are resolving these issues via Memoranda of Understanding (MOUs). The MOUs should be consulted for jurisdictional distinctions, but each of them addresses agency cooperation and minimizing duplication of efforts.

(4) *Clean Air Act (CAA)*. Section 328 of the CAA transferred the authority to regulate OCS air sources to the Environmental Protection Agency (EPA), except for those adjacent to the states of Texas, Louisiana, Mississippi, Alabama, and Alaska, for which the Department of the Interior retains authority. BSEE and EPA coordinate OCS regulatory activities to avoid inconsistency.

(5) *National Environmental Policy Act of 1969 (NEPA)*. NEPA requires that all federal agencies undertake an assessment of the environmental effects of their proposed actions prior to making decisions.

C. Implementation of Statutory, Regulatory and Policy Requirements.

- (1) *Scheduled Inspections.* BSEE EED personnel will conduct scheduled inspections to verify compliance with all environmental laws and regulations, lease stipulations, mitigation measures, conditions of approval, and other environmental requirements as deemed appropriate.
- (2) *Unannounced Inspections.* BSEE EED personnel may conduct unannounced inspections based upon violation reports received from any and all sources, past performance, and any additional criteria as may be deemed appropriate to include proximity of BSEE EED personnel to one or multiple operators.
- (3) *SEMS Audits.* BSEE EED personnel will participate as directed in the SEMS auditing program to ensure the environmental aspects of SEMS are properly addressed.
- (4) *Investigations.* BSEE EED personnel will participate in all panel investigations and district investigations of environmental/pollution incidents that are conducted as required by reference D above. Additionally, they will conduct apparent violation investigations as deemed appropriate.
- (5) *NEPA review.* BSEE EED personnel will review permit applications for all BSEE issued permits to determine adequacy of each NEPA document, and take appropriate action based upon that determination.
- (6) *Mitigation Measure/Remedial Action Evaluations.* BSEE EED personnel will evaluate lease stipulations, mitigation measures, and remedial actions as directed to determine their efficiency and effectiveness and provide the information/feedback to various components within BSEE as well as to the Bureau of Ocean Energy Management (BOEM) for validation, modification, or elimination, as appropriate. Specified BSEE EED personnel will participate in a review panel with BOEM personnel to establish priorities and processes in which to best accomplish these tasks.
- (7) *Enforcement.* Pursuant to reference F above, BSEE EED personnel are authorized to take any and all BSEE enforcement actions necessary to ensure compliance with environmental requirements of any kind, including but not limited to issuing Incidents of Noncompliance (INCs), referring INCs for civil penalty consideration, directing shut ins, revoking permits, and making criminal referrals.
- (8) *Data Review/Entry/Approval.* BSEE EED personnel are required to become nationally consistent with regard to data system entry upon implementation of a national data system.

7. Responsibilities.

A. The Chief, EED develops nationwide environmental enforcement and NEPA compliance program policy and provides program oversight under the direction of the BSEE Deputy Director. This oversight includes:

- (1) Supervising all Regional Environmental Officers;
- (2) Establishing national training requirements for EED personnel;
- (3) Managing environmental enforcement field activities, including but not limited to inspections, audits, investigations, mitigation measure evaluations, enforcement actions, etc.;
- (4) Review and oversight of NEPA compliance;
- (5) Managing appropriate coordination within BSEE, with BOEM, and with other federal, state, and local agencies at all levels within the EED;
- (6) Co-leading BSEE/BOEM mitigation measure review team;
- (7) Conducting public outreach regarding the environmental enforcement;
- (8) Managing all BSEE EED resource needs/issues;
- (9) Managing national data system needs as they pertain to environmental enforcement matters;
- (10) Establishing national consistency in environmental enforcement and NEPA compliance among the regions while taking into account region-specific circumstances;
- (11) Exploring and encouraging processes, policies, and incentives that promote a culture of balanced stewardship as well as evaluating existing policies and practices that may impede the ability to achieve that balance;
- (12) Managing miscellaneous environmental enforcement matters as they arise.

B. The Regional Environmental Officers execute nationwide environmental enforcement and NEPA compliance program policy and provide regional oversight under the direction of the Chief, EED. This oversight includes:

- (1) Supervising all Unit Chiefs or Environmental Enforcement Officers in the absence of Unit Chief positions;
- (2) Ensuring regional EED personnel are properly trained according to national training requirements;
- (3) Directing environmental enforcement field activities, including but not limited to inspections, audits, investigations, mitigation measure evaluations, enforcement actions, data system entries, etc.;
- (4) Ensuring regional compliance with all NEPA requirements;

(5) Ensuring appropriate regional coordination within BSEE, with BOEM, and with other federal, state, and local agencies;

(6) Managing regional BSEE EED resource needs/issues.

C. The Unit Chiefs (when applicable) in each region provide unit oversight under the direction of the Regional Environmental Officer as follows:

(1) The Environmental Inspection and Enforcement Unit Chief directs environmental enforcement field activities, including but not limited to inspections, audits, investigations, mitigation measure evaluations, enforcement actions, data system entries, etc.;

(2) The Environmental Review Unit Chief ensures regional compliance with all NEPA requirements and directs all regional NEPA activities;

(3) Both Unit Chiefs:

(a) Supervise all Environmental Enforcement Officers or Environmental Review Unit personnel as applicable;

(b) Ensure their unit personnel are properly trained according to national training requirements;

2. Ensure appropriate coordination within BSEE, with BOEM, and with other federal, state, and local agencies;

D. The Environmental Enforcement Officers and Environmental Review Unit personnel work as directed by their Unit Chief (when applicable) or the Regional Environmental Officer in the absence of Unit Chief positions.

8. Procedures. All BSEE EED formal procedures shall be established nationally and may be modified as necessary to account for regional differences.

9. Cancellation. The IPD will remain in effect until cancelled by a superseding IPD or incorporated into the BSEE Manual.


James A. Watson – Director

2-17-12
Date: