



United States Department of the Interior
BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT
1849 C Street, NW, Room 5453
Washington, DC 20240

Bureau Interim Directive

BID No: 2016-012N

Series: Program Series

To: All Bureau of Safety and Environmental Enforcement (BSEE) Employees

Approving Official: Director, BSEE

Office of Primary Responsibility: Safety Enforcement Division

Title: National Enforcement Policy

Purpose and Background

The purpose of this policy is to standardize a bureau-wide approach to the enforcement of regulations pertaining to the offshore industry, detail the range of enforcement tools available to BSEE, and clarify roles and responsibilities for implementing this policy.

In November 2015, BSEE implemented a realignment to strengthen transparency, consistency, predictability, and accountability in key bureau functions. The realignment employs a national program model whereby program direction is established in headquarters in collaboration with Regional Offices and program execution is carried out in the field. This national program model was applied to BSEE's enforcement functions, and the establishment of the national Safety Enforcement Division resulted.

Policy

It is the policy of BSEE to use the full range of tools available to ensure a high level of compliance, compel safe and environmentally sound results, and ensure that all operations within its purview are conducted in a safe and responsible manner. To this end, BSEE applies a standardized, bureau-wide approach to enforcement, as reflected in the attached Enforcement and Compliance Continuum and the roles and responsibilities of this policy.

A range of enforcement tools are available to BSEE to address noncompliance with safety, oil spill preparedness, and environmental rules and regulations. These tools include Civil Penalties (CPs) (except for oil spill preparedness), as well as incidents of noncompliance (INCs), directed Safety and Environmental Management System (SEMS) audits, Performance Improvement Plans (PIPs), directed suspension of operations or production, and referral to another office within the Department or another agency for enforcement. This policy, and the Bureau's Outer Continental Shelf (OCS) CP Program Policies and Procedures Guidebook, together provide a framework consistent with BSEE's current regulations for the CP assessment process. Furthermore, this

policy and the Bureau's Enforcement Procedures (currently under development), will provide an additional framework under the Outer Continental Shelf Lands Act (OCSLA) and its implementing regulations for the use of a wide range of enforcement tools in addition to CPs. Implementation of this policy and the accompanying procedures creates a level playing field among operators and contractors across districts and regions to help ensure a standardized approach to enforcement so that similar violations are treated in a consistent manner.

Responsibilities

1. Director/Deputy Director:

- a. Provide the necessary support and delegations of authority to Regional Directors and Headquarters Division Chiefs to facilitate full and timely implementation of this BID at all levels within BSEE.
- b. Ensure that BSEE supervisors and managers are held accountable for adherence to this BID.
- c. Establish BSEE enforcement priorities to address areas of concern and clearly communicate those priorities to all internal and external stakeholders.
- d. Promote coordination and cooperation within the Department, and with partner Departments and Agencies at the national level.

2. Regional Directors and Division Chiefs:

- a. Ensure that BSEE Inspectors, Division Staff, Reviewing Officers, District Managers, and Case File Developers are responsible and accountable for full and timely implementation of and adherence to this BID.
- b. Ensure BSEE staff receive appropriate administrative support, resources, and training in collaboration with the Safety Enforcement Division. Provide staff with a means of communicating problems, issues, concerns and recommendations regarding implementation of this BID.
- c. Ensure that enforcement data are collected in a timely manner, and are accurate and complete in accordance with standard operating procedures.
- d. Provide recommendations and feedback to BSEE leadership and program staff to facilitate full implementation of this BID.

3. Chief, Safety Enforcement Division:

- a. Collaboratively develop and maintain national enforcement and compliance policy.
 - b. Establish and maintain complementary procedures and business rules necessary for full implementation of this BID in a collaborative manner, including, but not limited to: staff training requirements, administrative record requirements, tracking and reporting obligations, referrals to inter-agency partners, and performance measures.
 - c. Serve as liaison among and between BSEE Director and Deputy Director and Regional Directors and Division Chiefs, as well as with Departmental leadership to ensure that internal and external stakeholders are kept informed of BSEE's enforcement priorities and enforcement response policies and activities in accordance with this BID.
 - d. Coordinate with Chief, Safety and Incident Investigations Division to review findings of investigations and ensure that appropriate actions are taken, including findings associated with investigations to be referred for criminal prosecution in accordance with BID No. 2016-002N, BSEE / DOI OIG Coordination.
 - e. On an annual basis, collaborate with BSEE leadership to establish and promote BSEE enforcement priorities.
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- f. Work with Regional Enforcement Group to ensure prompt and efficient resolution of enforcement actions, including CP cases and other actions described in the Enforcement and Compliance Continuum.
4. Regional Enforcement Group(s) or personnel:
 - a. Ensure that this policy and related procedures are applied consistently throughout the District and Regional Program Offices.
 - b. Maintain training requirements, tracking and reporting obligations, and input on enforcement priorities.
 - c. Review all CP referrals for completeness and assign Reviewing Officers to assess and process CPs.
 - d. Provide Regional, District and Program Offices with subject matter expertise and management oversight for enforcement-related activities.
 - e. Provide CP and other data related to enforcement actions and related actions to the Safety Enforcement Division.
 - f. Maintain comprehensive administrative records of decisions.
 - g. Coordinate with the Safety Enforcement Division regarding CP appeals to the Interior Board of Land Appeals (IBLA).
 - h. Oversee progress of CP cases, seek periodic updates from Review Officers, and work to address undue delays in the progress of CP cases.
 5. Case File Developer:
 - a. Serve as the liaison between the Reviewing Officer and the District and Program Offices.
 - b. Coordinate the development of the CP case file and ensure consistency with policies and procedures.

Authorities

1. Outer Continental Shelf Lands Act (OCSLA), Sec.24 (“Remedies and Penalties”), 43 U.S.C. § 1350.
2. Code of Federal Regulations: 30 C.F.R. Parts 200 to 699. (“Mineral Resources”).
3. Code of Federal Regulations: 30 C.F.R. §§ 250.1400 to 250.1409 (“Outer Continental Shelf Civil Penalties”); 30 C.F.R. §§ 290.1 to 290.8 (“BSEE Enforcement Appeal Procedures”).
4. Federal Oil and Gas Royalties Management Act (FOGRMA) of 1982 (30 U.S.C. § 1701 et seq.).

References

1. BSEE Civil Penalty Program Policy and Procedures Guidebook, September 2013.
2. BSEE / DOI OIG Coordination, BID No. 2016-002N, March 2016.

Supersession and Expiration

This directive is valid until superseded. This directive supersedes any existing policies, guidance, directives, or procedures that conflict with what is laid out in this policy, regardless of whether conflicting language is from Headquarters, the Regions or the Districts.

Contact

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Attachments

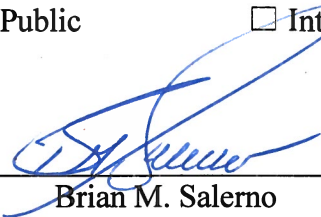
1. BSEE Enforcement and Compliance Continuum

Type of BID:

☒ National ☐ Regional ☐ Emergency (not to Exceed 60 days)

Distribution Designation

☒ Public ☐ Internal



Brian M. Salerno

Director

Bureau of Safety and Environmental Enforcement

9 MAY 2016

Date



Attachment 1

May 04, 2016

Enforcement and Compliance Continuum

Purpose

BSEE's mission is to promote safety, protect the environment and conserve resources offshore through vigorous regulatory oversight and enforcement. Our goals for the offshore industry are to ensure a high level of compliance, compel safe and environmentally sound results, and ensure that operations within our purview are conducted in a safe and responsible manner.

Program Elements

An effective compliance program requires clear and understandable standards, sufficient reporting and recordkeeping to measure compliance, an effective oversight program in the field, a range of enforcement tools graduated to risk, and incentives to move beyond baseline compliance to an effective safety and environmental protection management scheme.

Operating Principles

In implementing the enforcement and compliance program, BSEE will be guided by safety, preparedness, and environmental protection performance goals and adhere to clear, systemic, and fair processes. The program will promote a culture of professionalism throughout the workforce. The program will establish consistent, transparent, and clear processes that will guide program implementation.

Enforcement Philosophy

BSEE promotes compliance with safety, preparedness, and environmental standards through regular inspections and other monitoring activities, timely notice to operators of detected violations, clear direction for coming into compliance and a reasonable opportunity for improvement. Should an immediate threat to safety or the environment be detected, BSEE will take direct action to mitigate the threat, including shut-in action if warranted. Our intent is to prevent incidents; however, should they occur, BSEE has a duty

to investigate, determine the causal elements/factors and take the appropriate corrective actions. The implications of such determinations may apply to the lessees and/or operator(s) involved in the incident, potentially their contractors and subcontractors, and also may extend to industry-wide practices (e.g., the issuance of a safety alert as the result of an investigation). Implications of these determinations also may impact BSEE's own regulatory procedures and standards. BSEE's goal is to improve safety and environmental protection on a company basis, as well as on a system-wide level as appropriate.

BSEE has a range of regulatory and administrative enforcement tools at its disposal, from issuing warnings to recommending for OCS debarment. In most cases, routine enforcement methods are sufficient. However, in cases where lessees, operators, and/or contractors are unwilling or reluctant to operate in a responsible manner, stronger actions will be taken to compel compliance with the regulations and recognized operating standards. All incidents present an opportunity to improve our understanding of underlying causes and risk factors; therefore, systemic analysis of this information is a key element of BSEE's enforcement program and is critical to a risk based approach to our regulatory responsibilities.

On rare occasions, BSEE investigations will detect evidence of knowing and willful misconduct or otherwise unlawful activity. Although BSEE is not a criminal law enforcement agency, such evidence, when detected, will be handled appropriately and properly preserved until a transfer to designated criminal law enforcement investigators can be accomplished. In these situations, BSEE personnel will continue to cooperate with criminal law enforcement officials as subject matter experts in the development of cases.
