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

Environmental and NEPA

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 order to synchronize the agencies' environmental review and environmental enforcement processes for authorizations required to conduct conventional energy and resource activities on the Outer Continental Shelf (OCS). This MOA is intended to help both agencies minimize duplication of efforts, promote consistency in procedures and regulations, and resolve disputes. A separate, overarching Memorandum of Understanding describes the general relationship between the two bureaus. A series of standard operating procedures (SOPs) describes more specific roles and responsibilities of the two Bureaus and are designed to be updated as dictated by changing practices, law, or technology.

A. The purpose of this MOA is to establish a general framework for the necessary coordination between the agencies to ensure requisite environmental oversight for OCS conventional energy and resource activities under the jurisdiction of BOEM or BSEE.

B. Cooperation between the Bureaus will ensure that each agency's responsibilities under the National Environmental Policy Act (NEPA) and other applicable federal laws, including but not limited to, the Coastal Zone Management Act (CZMA), Endangered Species Act (ESA), Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), Marine Mammal Protection Act (MMPA), National Historic Preservation Act (NHPA), Rivers and Harbors Act (RHA), Migratory Bird Treaty Act, Clean Water Act (CWA) and Clean Air Act (CAA) are met in connection with the issuance of authorizations required to conduct conventional energy and resource activities on the OCS.

C. BSEE will serve as a cooperating agency on BOEM NEPA documents. There is a clear expectation that serving as a cooperating agency where practicable will be the standard protocol for any BOEM NEPA analysis that BSEE may adopt for its decisions. Both Bureaus recognize that BSEE may adopt NEPA analyses prepared by BOEM for proposed OCS conventional energy and resource activities under the jurisdiction of BSEE. However, there may be some circumstances where both agencies will be better served by alternate approaches to NEPA compliance. This MOU does not preclude such arrangements.

D. Both Bureaus also anticipate that certain proposed activities on the OCS authorized solely by BSEE would benefit from consultation and coordination with the robust environmental functions in BOEM.

II. Authorities

Both BOEM and BSEE derive authority to regulate certain activities on the OCS through the Secretary of the Interior. Secretarial Order 3299 assigned BOEM conventional and renewable energy-related management functions, including, but not limited to, activities involving leasing, plans, environmental studies, NEPA analyses, economic and reserves analyses, and geologic risk analyses. BSEE's authority includes, but is not limited to, permitting, environmental compliance, conservation compliance, engineering standards and regulations, oil spill response planning, inspections, enforcement, and investigations. Additionally, 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 Clean Air Act, the Oil Pollution Act of 1990, the Energy Policy Act of 2005, and the Gulf of Mexico Energy Security Act of 2006.

A. National Environmental Policy Act of 1969 (42 U.S.C. §4321 et seq.)
NEPA requires all agencies of the federal government to use a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences in planning and decision making for actions and activities that may have an impact on man's environment. Prior to making any detailed statement, the responsible federal official shall consult with and obtain the comments of any federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved.

B. Outer Continental Shelf Lands Act (OCS Lands Act), as amended (43 U.S.C. §1331 *et seq.*). Under this authority, and as delegated by the Secretary of the Interior, BOEM and BSEE administer different aspects of the OCS oil and gas program, with BOEM responsible for oil and gas leasing program and approval of plans that describe how leases will be explored, developed and resources produced; BSEE is responsible for decisions implementing the approved plans and ensuring conservation of the resources. Together, the agencies are charged with ensuring safe and environmentally sound operations.

III. Objectives

This MOA and associated SOPs have several objectives. The functional SOPs for this MOA are:

1. NEPA/Environmental Compliance for APDs

BSEE Objective in the Process:

a. To determine if the Categorical-Exclusion Review (CER), Site-Specific Environmental Assessment (SEA), or Environmental Impact Statement (EIS) prepared on the Exploration Plan (EP), Development Operations Coordination

Document (DOCD), or Development/Production Plan (DPP) associated with the subject Application for Permit to Drill (APD) was adequate, whether Extraordinary Circumstance (EC) may exist (in the case of a CER), and/or if supplemental NEPA analysis is required;

b. To conduct NEPA decision making and the preparation of an associated Determination of NEPA Adequacy (DNA) or CER for adoption of BOEM NEPA analyses and approval of associated APD;
c. To oversee any requisite environmental monitoring needs (i.e., related to protected species requirements, water quality checks, anchoring concerns, air quality inventory issues, etc.); and
d. To ensure that Post-Activity environmental compliance needs are identified, met, and documented.

BOEM Objective in the Process:

a. To assist in any Post-Activity environmental compliance reviews; and
b. To improve site-specific impact reviewing/mitigation development and incorporate compliance efforts into BOEM's programmatic analyses using feedback from BSEE.
c. Prepare NEPA documents in regards to BSEE APDs.

2. Environmental Compliance for 30CFR251/280 G&G Permit Applications

BSEE Objective in the Process:

a. To oversee any requisite environmental monitoring needs (i.e., protected species requirements, anchoring concerns, etc.); and
b. To ensure that Post-Activity environmental compliance needs are met and documented.

BOEM Objective in the Process:

a. To assist in any Post-Activity environmental compliance reviewing; and
b. To improve site-specific impact reviewing/mitigation development and incorporate compliance efforts into BOEM's programmatic analyses using feedback from BSEE.

3. NEPA/Environmental Compliance for APMs/RPMs Proposing Explosive Use

BSEE Objective in the Process:

a. To assist in the coordination of the NEPA review of any Application for Permit to Modify/Revised Application for Permit to Modify (APM/RPM) proposing explosive well severance (i.e., initial BOEM assignments, data gathering, eWell coordination, etc.);
b. To determine if an adequate level of NEPA analysis was conducted (i.e., Site-Specific Environmental Assessment (SEA) in GOMR; possibly SEA or Environmental Impact Statement (EIS) in POCS/AKOCS);
c. To prepare NEPA Decision Making/Preparation of Decision Document (i.e., Finding of No Significant Impact (FONSI) for GOMR; possibly FONSI or Record of Decision (ROD) for POCS/AKOCS) for adoption of BOEM NEPA document and approval of associated APM/RPM; and

d. To conduct any requisite environmental monitoring needs (i.e., related to protected species requirements, anchoring concerns, etc.); and
e. To ensure Post-Activity environmental compliance needs are met and documented.

BOEM Objective in the Process:

a. To conduct the site-specific environmental impact analyses and prepare the appropriate NEPA document (i.e., SEA or EIS) for the respective APM/RPM;
b. To assist in any Post-Activity environmental compliance reviewing; and
c. To improve site-specific resource/impact reviewing efforts and incorporate compliance efforts into BOEM's programmatic analyses using feedback from BSEE.

4. NEPA/Environmental Compliance For Pipeline Permit Applications (Right-of-Way & Lease Term Pipeline Permits for Installation and/or Modification)

BSEE Objective in the Process:

a. To assist in the coordination of the NEPA review of all Permit Applications for the installation or modification of Right-of-Way (ROW) or Lease-Term (LT) Pipelines (i.e., TIMS assignments [via coordination reviews], data gathering, etc.);
b. To determine if an adequate level of NEPA analysis was conducted (i.e., a Categorical-Exclusion Review (CER) or Site-Specific Environmental Assessment (SEA) in GOMR; possibly a CER, SEA, or Environmental Impact Statement (EIS) in POCS/AKOCS);
c. To prepare NEPA Decision Making/Preparation of Decision Document (i.e., CER Adoption Memo or Finding of No Significant Impact (FONSI) for GOMR; possibly CER Memo, FONSI, or Record of Decision (ROD) for POCS/AKOCS) for adoption of BOEM NEPA document and approval of the associated Pipeline Permit;
d. To conduct any requisite environmental monitoring needs (i.e., anchoring concerns, etc.); and
e. To ensure that Post-Activity environmental compliance needs are met and documented.

BOEM Objective in the Process:

a. To conduct the site-specific environmental impact analyses and prepare the appropriate NEPA document (i.e., CER, SEA, or EIS) for the respective Permit Application;
b. To assist in any Post-Activity environmental compliance reviewing; and
c. To improve site-specific impact reviewing/mitigation development and incorporate compliance efforts into BOEM's programmatic analyses using feedback from BSEE.

5. Environmental Compliance For Plans (EPs, DOCDs, and DPPs)

BSEE Objective in the Process:

a. To oversee any requisite environmental monitoring (i.e., protected species requirements, water quality checks, anchoring concerns, air quality inventory issues, etc.); and

b. To ensure that Post-Activity environmental compliance needs are met and documented.

BOEM Objective in the Process:

a. To assist in any Post-Activity environmental compliance reviewing; and
b. To improve site-specific impact reviewing/mitigation development and incorporate compliance efforts into BOEM's programmatic analyses using feedback from BSEE.

6. NEPA/Environmental Compliance Structure-Installation/Modification/Repair Permits

BSEE Objective in the Process:

a. To determine if the Categorical-Exclusion Review (CER), Site-Specific Environmental Assessment (SEA), or Environmental Impact Statement (EIS) prepared on the Exploration Plan (EP), Development Operations Coordination Document (DOCD), or Development/Production Plan (DPP) associated with the subject Structure Installation or Modification Permit Application was adequate, whether Extraordinary Circumstance (EC) may exist (in the case of a CER), and/or if supplemental NEPA analysis is required;
b. To prepare NEPA Decision Making and the Preparation of an associated Determination of NEPA Adequacy (DNA) or CER for adoption of BOEM NEPA document/site-specific impact analyses and approval of associated APD;
c. To conduct any requisite environmental monitoring needs (i.e., related to protected species requirements, water quality checks, anchoring concerns, air quality inventory issues, etc.); and
d. To ensure that Post-Activity environmental compliance needs are met and documented.

BOEM Objective in the Process:

a. To assist in any Post-Activity environmental compliance reviewing; and
b. To improve site-specific impact reviewing and/or mitigation development and incorporate compliance efforts into BOEM's programmatic analyses using feedback from BSEE.

7. NEPA/Environmental Compliance Structure-Removal Permit Applications

BSEE Objective in the Process:

a. To assist in the coordination of the NEPA review of all Structure-Removal Permit Applications (i.e., TIMS assignments [via coordination reviews], data gathering, etc.);
b. To determine if an adequate level of NEPA analysis (this includes all applicable consultations) was conducted (i.e., Site-Specific Environmental Assessment (SEA) in GOMR; possibly SEA or Environmental Impact Statement (EIS) in POCS/AKOCS);
c. To oversee NEPA Decision Making/Preparation of Decision Document (i.e., Finding of No Significant Impact (FONSI) for GOMR; possibly FONSI or Record of Decision (ROD) for POCS/AKOCS) for adoption of BOEM NEPA document and approval of associated Structure-Removal Permit; and

d. To ensure that any environmental monitoring (i.e., related to protected species requirements, anchoring concerns, etc.) and/or Post-Activity environmental compliance needs are met and documented.

BOEM Objective in the Process:

a. To conduct the site-specific environmental impact analyses and prepare the appropriate NEPA document (i.e., SEA or EIS) for the respective Structure-Removal Permit Application;
b. To assist in any Post-Activity environmental compliance reviewing; and
c. To improve site-specific impact reviewing/mitigation development and incorporate compliance efforts into BOEM's programmatic analyses using feedback from BSEE.

8. Procurement of Environmental Studies Program (ESP) Projects

BSEE Objective in the Process:

a. To provide input to the ESP's annual Studies Development Plan (SDP).
b. To attend and participate in meetings of the Outer Continental Shelf Scientific Committee (OCS SC).
c. To participate in the development and conduct of studies as appropriate to the need and discipline.
d. To receive and use products and results of studies in work products as appropriate.

BOEM Objective in the Process:

a. To prepare the ESP's annual SDP.
b. To plan and conduct meetings of the OCS SC.
c. To lead the design and conduct of environmental studies.
d. To solicit and incorporate input from partners into study design and on interim study products.
e. To disseminate products, results and information from completed studies to those using them in their work products.

IV. Contacts

BSEE and BOEM Regional Directors

<u>BSEE AKOCS</u>
Chief, Environmental Enforcement Branch (Regional Environmental Officer)
Regional Supervisor for Field Operations

<u>BOEM AKOCS</u>
Regional Supervisor for Environment
Chief, Environmental Analysis Section I
Chief, Environmental Analysis Section II

Regional Supervisor for Leasing and Plans
    Chief, Plans Section
    Chief, Leasing Section
Regional Supervisor for Resource Evaluation
    Chief, Resource Analysis Section
    Chief, Resource and Economic Analysis Section

BSEE POCS
Regional Environmental Officer
Regional Supervisor for Field Operations

BOEM POCS
Regional Supervisor for Environment
    Chief, Environmental Analysis Section
    Chief, Environmental Sciences Section
Regional Supervisor Strategic Resources
    Chief, Plans Section

BSEE GOMR
Chief, Environmental Enforcement Branch (Regional Environmental Officer)
    Supervisor, Environmental Review Unit
    Supervisor, Environmental Inspection and Enforcement Unit
Regional Supervisor for Regional Field Operations
    Chief, Structural and Technical Support
    Chief, Pipeline Section
    Chief, Office of Safety Management
Regional Supervisor for District Field Operations
    Manager, Houma District Office
    Manager, Lafayette District Office
    Manager, Lake Charles District Office
    Manager, Lake Jackson District Office
    Manager, New Orleans District Office

BOEM GOMR
Regional Supervisor for Environment
    Chief, Operations Assessment Section
    Chief, Environmental Sciences Section

HQ
Chief, Office of Environmental Programs
    Chief, Environmental Sciences Division
        Manager, Environmental Studies Program
    Chief, Environmental Assessment Division

V. Responsibilities

1. **BOEM.** BOEM administers a regulatory program for oil and gas related activities on the OCS and conducts environmental analyses for pre-lease activities; oil and gas leasing decisions; and approval of exploration, development and production plans. Pre-lease activities may include site characterization surveys, which may involve geological and geophysical evaluations. BOEM reviews and approves required plans to authorize oil and gas activities under its jurisdiction pursuant to 30 CFR 550 and 556. BOEM conducts NEPA analyses on all these actions.

   BOEM assists BSEE with environmental consultations under other statutes for activities under BSEE jurisdiction. BOEM, in consultation with BSEE, develops environmental mitigation measures, monitoring protocols, and other environmental requirements for implementation in appropriate BOEM and BSEE authorizations. BOEM provides environmental review and input to BSEE on environmental investigations, compliance efforts, and enforcement actions.

2. **BSEE.** BSEE administers a regulatory environmental enforcement program to ensure that OCS oil and gas exploration, development, and production are conducted in an environmentally sound manner. BSEE confirms NEPA compliance for BSEE authorized activities, preparing documentation for all requisite decisions. BSEE confirms compliance with environmental requirements under NEPA and other statutes. BSEE monitors industry compliance with mitigations and other environmental requirements through office and field inspections. BSEE takes enforcement actions on incidences of non-compliance and BSEE confers with BOEM as appropriate and conducts investigations related to environmental enforcement actions.

VI. Modifications and Interpretations

Modifications to this MOA shall be made by written consent of both Bureaus' Deputy Directors.

Interpretations of this MOA should be consistent with the stated goals and purpose. For specific actions, Bureaus should clarify their roles and responsibilities in SOPs. The SOPs may be modified with the written consent of both Bureaus' appropriate Regional Director or Senior Executive.

VII. Signatures

Walter D. Cruickshank — 10/3/11

BOEM Deputy Director — Date

Robert LaBelle — 10/3/11

BSEE Deputy Director, Acting — Date