

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT
AND
BUREAU OF OCEAN ENERGY MANAGEMENT**

JOINT NTL No. 2023-N01

Effective Date: January 17, 2023

NOTICE TO LESSEES, GRANTEES, AND OPERATORS OF
FEDERAL RENEWABLE ENERGY LEASES,
RIGHT-OF-WAY GRANTS, RIGHT-OF-USE AND EASEMENT GRANTS,
AND
ALTERNATE USE RIGHT-OF-USE AND EASEMENT GRANTS
ON THE OUTER CONTINENTAL SHELF

**Reorganization of Title 30—Renewable Energy and Alternate Uses of Existing Facilities on
the Outer Continental Shelf into 30 CFR Parts 285, 585, and 586**

Purpose

This notice to lessees (NTL) provides information and guidance regarding the reorganization of the Outer Continental Shelf (OCS) renewable energy regulations between the Bureau of Safety and Environmental Enforcement (BSEE) and the Bureau of Ocean Energy Management (BOEM). That reorganization was announced in the final rule entitled “Reorganization of Title 30—Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf,” which was published in the Federal Register on January 31, 2023, (88 FR 6376).

This NTL also provides guidance for submitting information—in appendix A to BOEM and in Appendix B to BSEE—as required by the regulations in 30 CFR parts 285, 585, and 586.

Background and Legal Authority

In the Energy Policy Act of 2005 (EPAcT), Congress authorized the Secretary of the Interior (Secretary) to establish a program for renewable energy activities on the OCS and to promulgate any necessary regulations to carry out that program. Specifically, the EPAcT amended the OCS Lands Act (OCSLA) to add subsection 8(p) (43 U.S.C. 1337(p)). Subsection 8(p) grants the Secretary the authority to issue leases, easements, and rights-of-way (ROWs) on the OCS for activities that produce or support the production, transportation, storage, or transmission of energy from sources other than oil and gas, or that use existing OCS facilities for energy- or marine-related purposes that are not otherwise authorized by OCSLA or other laws.

The Department of the Interior (DOI) published a final rule in the *Federal Register* on April 29, 2009 (74 FR 19638), establishing a regulatory framework for its OCS renewable energy program within the former Minerals Management Service (MMS), the predecessor agency to BSEE and BOEM. On October 18, 2011, MMS’s renewable energy regulations were assigned to BOEM and repromulgated at 30 CFR part 585 (76 FR 64432).

Transfer of Oversight Responsibilities

Secretary’s Order 3299, which established BOEM and BSEE, assigned safety and environmental oversight for the OCS renewable energy program to BOEM until such time as the Assistant Secretary – Land and Minerals Management (ASLM) determined that an increase in activity justified the transfer of those functions to BSEE. In December 2020, the Principal Deputy Assistant Secretary – Land and Minerals Management, acting with the authority of the ASLM, directed the transfer of safety and environmental oversight for the OCS renewable energy program from BOEM to BSEE due to increased wind energy activity.¹ On September 14, 2022, DOI delegated relevant authorities to BSEE and BOEM in Departmental Manual part 219, chapter 1, and part 218, chapter 1, respectively.

On January 31, 2023, DOI published a final rule in the *Federal Register* (88 FR 6376) that moved the existing OCS renewable energy and alternate use of existing OCS facilities regulations, consistent with the Secretary’s order and the Departmental Manual. The final rule did not include any substantive changes to the existing regulations. The rule simply reassigned the existing regulations to reflect the Secretary’s recent delegation of responsibilities to BSEE and BOEM. Specifically, the final rule reassigned regulations pertaining to safety and environmental oversight of OCS renewable energy activities from BOEM’s oversight in 30 CFR part 585 to BSEE’s oversight in 30 CFR part 285. The rule also moved the 30 CFR part 585 regulations governing rights-of-use and easement for the alternate use of existing OCS facilities to 30 CFR part 285 and a new part, 30 CFR part 586.

Certain regulations appear in more than one part because they implicate responsibilities delegated to both BOEM and BSEE (collectively, the Bureaus). This NTL clarifies the respective roles of BOEM and BSEE in these instances. However, the legal rights, obligations, and interests of lessees, grantees, and operators are unaffected by the administrative reorganization of these agency responsibilities in the final rule.

Bureau Responsibilities

This section provides an overview of each Bureau’s authorities as reflected in the final rule.

¹ “Memorandum from Principal Deputy Assistant Secretary - Land and Minerals Management on the Department of the Interior’s Offshore Renewable Energy Program Roles and Responsibilities,” December 22, 2020.

Key authorities retained by BOEM include, but are not limited to:

- Issuing and managing leases, easements, and ROWs for activities on the OCS that produce or support the production, transportation, or transmission of energy from sources other than oil and gas, including area identification, determinations of competitive interest, and resource analysis;
- Issuing and managing alternate use of existing OCS facilities through right-of-use and easement grants (Alternate Use RUEs);
- Reviewing and either approving, approving with modifications, or disapproving plans, including construction and operations plans (COP), site assessment plans (SAP), and general activities plans (GAP);
- Enforcing BOEM regulations through notices of noncompliance and civil penalties; and
- Conducting environmental analyses under the National Environmental Policy Act of 1969 (NEPA) and developing and imposing mitigation measures to avoid or minimize harm to the marine, coastal, or human environments (including, but not limited to, measures for avoiding impacts and conserving natural resources).

Key authorities transferred to BSEE include, but are not limited to:

- Evaluating and overseeing facility design, fabrication, installation, safety management systems, and oil spill response plans;
- Enforcing operational safety through inspections, incident reporting, and investigations;
- Enforcing compliance, including safety and environmental compliance, with all applicable laws, regulations, leases, grants, and approved plans through notices of noncompliance, cessation orders, civil penalties, and other appropriate means; and
- Overseeing decommissioning activities.

Shared Provisions in 30 CFR Parts 285, 585, and 586

This section provides an overview and explains notable provisions shared by both Bureaus as reflected in the final rule.

1. Departures (§§ 285.103, 585.103, and 586.104)

BSEE may prescribe or approve departures from the regulations in part 285.

BOEM may prescribe or approve departures from the regulations in part 585 and part 586.

If your departure request seeks departures from regulations in both part 285 and part 585 or in both part 285 and part 586, then you must document your request in writing to both Bureaus. Each bureau will consider the request within the scope of its respective regulations.

Departures issued by BOEM under § 585.103 prior to the publication date of the final rule remain authorized as approved, including any required mitigation measures or compliance verification.

2. Suspension of a Lease or Grant or Alternate Use RUE (§§ 285.417, 285.1014, 585.416, 585.417, and 586.214)

BSEE may order a suspension of your lease, grant, or Alternate Use RUE when:

- Necessary to comply with judicial decrees or
- Continued activities pose an imminent threat of serious or irreparable harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance.

BSEE also may order a suspension of your Alternate Use RUE when:

- Operation of the existing OCS facility that is subject to the Alternate Use RUE has been suspended or temporarily prohibited, and BSEE has determined that continued activities under the Alternate Use RUE are unsafe or cause undue interference with the original OCSLA-approved activity.

BOEM may approve a request for a suspension of your lease or grant when:

- BOEM determines it is necessary to ensure full enjoyment of your lease or grant and it is in BOEM's interest to approve the suspension; or
- You do not timely submit a SAP, COP or GAP, and you request a suspension to extend the preliminary or site assessment term of your lease or grant that includes a revised schedule for submission of a SAP, COP or GAP, as appropriate.

BOEM may order a suspension of your lease, grant, or Alternate Use RUE when:

- Necessary to comply with judicial decrees; or
- Necessary for reasons of national security or defense.

3. Notices of Noncompliance (§§ 285.400(b), 585.106(b), and 586.106(b))

BSEE may issue a notice of noncompliance for:

- A violation of the regulations in part 285;
- A violation of any order of the BSEE Director; or
- A violation of any provision of a lease, grant, or other approval or non-objection notice issued under parts 285, 585, or 586.

BOEM may issue a notice of noncompliance for:

- A violation of the regulations in part 585 or 586;

- A violation of any order of the BOEM Director; or
- A violation of any provision of a lease, grant, or other approval issued under parts 585 or 586.

Either BOEM or BSEE may issue a notice of non-compliance for any one specific failure to comply, *i.e.*, you will not be issued a notice of non-compliance from both Bureaus for the same violation.

4. Civil Penalties (§§ 285.400(f), 585.106(e), and 586.106(e))

BSEE may assess a civil penalty after the lessee has been notified of a violation and a reasonable period for corrective action has expired for:

- Failure to comply with any provision of part 285; or
- Failure to comply with any term of a lease, grant, or order issued under parts 285, 585, or 586.

BOEM may assess a civil penalty after the lessee has been notified of a violation and a reasonable period for corrective action has expired for:

- Failure to comply with any provision of parts 585 or 586; or
- Failure to comply with any term of a lease, grant, or order issued under parts 585 or 586.

Either BOEM or BSEE may assess a civil penalty for any one specific failure to comply, *i.e.*, you will not be assessed a civil penalty from both Bureaus for the same violation.

5. Cancellations (§§ 285.437, 585.422, and 586.216)

The Secretary may cancel leases or grants issued under parts 585 or 586. Either BOEM or BSEE may refer a lease or grant to the Secretary for cancellation under their respective regulations.

6. Safety Management Systems (SMS) (§§ 285.614(b), 285.632(b), 285.651, 285.810, 285.811, 585.605(d), 585.613(a)(1), 585.614(b), 585.627(d), 585.632(b), 585.648(a)(1), and 585.651)

For your SAP or GAP, BOEM will notify you if it determines that your proposed facilities or combinations of facilities are complex or significant, in which case an SMS must be submitted to BSEE.

When an applicant submits a COP to BOEM, it must also submit an SMS to BSEE. Prior to BOEM approving your COP, SAP, or GAP, BSEE will evaluate how your chosen SMS framework addresses safety and environmental risks associated with your plan. Information on submitting your SMS can be found in appendix B.

Any submission made to BOEM prior to the publication of the final rule does not need to be re-

submitted to BSEE.

7. Oil Spill Response Plan (OSRP) (§ 585.627(c))

Your OSRP associated with activities in your COP should be submitted directly to BSEE when you submit your COP to BOEM. If you have already submitted a regional OSRP to BSEE covering more than one renewable energy project, you may reference the regional OSRP in your COP and update the regional OSRP with information about your new project. BSEE will evaluate your OSRP to ensure you are prepared to respond to a discharge from any of your facilities. Information on submitting OSRPs can be found in appendix B.

Any submission made to BOEM prior to the publication of the final rule does not need to be re-submitted to BSEE.

8. Consistency Review Among Activities, Reports, or Other Submissions and the Approved Plan (§§ 285.700, 285.701, 285.702, 285.703, 285.712, 585.617, 585.632, 585.634, 585.655)

If either of the Bureaus identifies a potential inconsistency between your approved plan and your activities, facility design report (FDR), fabrication and installation report (FIR), repair or modification reports, or other submissions, BOEM will determine whether a plan revision is required under §§ 585.617 (SAPs), 585.632 and 585.634 (COPs), or 585.655 (GAPs). If BOEM determines a plan revision is required, then you may either submit a plan revision to BOEM for review, alter your activities to conform to the approved plan, or revise your submission to conform to the approved plan.

If BSEE determines your FDR, FIR, or repair or modification report is inconsistent with your COP, BSEE may object to that report until the inconsistency is rectified.

9. Decommissioning Facilities Authorized Within a Lease or Grant (§ 285.900 *et seq.* and § 585.434)

You must include an overview of your decommissioning concept in your SAP, COP, and GAP. Approval of the decommissioning concept is not the same as approval of your decommissioning application. Your decommissioning application must be submitted directly to BSEE for review under § 285.902. BSEE must approve your decommissioning application before you may commence decommissioning activities. If your decommissioning application is inconsistent with the decommissioning concept in your approved plan, then you must either revise your decommissioning application or revise your approved plan to eliminate the inconsistency. BSEE will order any necessary revisions to decommissioning applications, and BOEM will order any needed plan revisions.

In your decommissioning application, that you submit to BSEE in accordance with § 285.902,

you may request that certain facilities authorized in your lease or grant remain in place. BOEM will review that request and may approve it on a case-by-case basis under § 585.434. To facilitate a timely review of your decommissioning application, you should engage with BSEE and BOEM regarding any potential requests to leave facilities in place before submitting your decommissioning application.

BSEE will ensure compliance with your decommissioning application and verify site clearance. You must submit a decommissioning notice to BSEE after approval of your decommissioning application and at least 60 days prior to beginning decommissioning activities. You must also submit a decommissioning report to BSEE within 60 days after you complete the decommissioning of a facility, cable, or pipeline.

10. Decommissioning of Alternate Use RUEs (§§ 285.1018, 285.1019, and 586.219)

The Bureaus will work together to establish decommissioning requirements for an Alternate Use RUE. BSEE will focus on decommissioning the existing structures originally authorized for other purposes under OCSLA. BSEE will also verify that you satisfy all decommissioning requirements set by BOEM in an Alternate Use RUE. BOEM will focus on determining the decommissioning requirements for any new structure authorized in the Alternate Use RUE that is connected to an existing structure previously authorized for other purposes under OCSLA.

Documents Superseded

1. BSEE and BOEM Renewable Energy Program Incident Reporting Letter of Agreement – July 31, 2020.
2. BSEE and BOEM letter to lessees outlining the Bureaus working relationship, March 2020.

BOEM Guidance Updates

The following BOEM guidance documents will be updated with administrative and technical corrections to accurately reflect the reorganization of the regulations:

1. *Guidelines for Lighting and Marking of Structures Supporting Renewable Energy Development* available at: <https://www.boem.gov/sites/default/files/documents/renewable-energy/2021-Lighting-and-Marking-Guidelines.pdf>
2. *Draft Guidance Regarding the Use of a Project Design Envelope in a Construction and Operations Plan*, available at: <https://www.boem.gov/sites/default/files/renewable-energy-program/Draft-Design-Envelope-Guidance.pdf>
3. *Guidelines for Information Requirements for a Renewable Energy Site Assessment Plan (SAP)*, available at: <https://www.boem.gov/sites/default/files/renewable-energy-program/BOEM-Renewable-SAP-Guidelines.pdf>
4. *Information Guidelines for a Renewable Energy Construction and Operations Plan (COP)*, available at: <https://www.boem.gov/sites/default/files/documents/about->

boem/COP%20Guidelines.pdf.

5. *Qualification Guidelines to Acquire and Hold Renewable Energy Leases and Grants and Alternate Use Grants on the U.S. Outer Continental Shelf*, available at: <https://www.boem.gov/sites/default/files/documents/about-boem/Qualification%20Guidelines.pdf>.

BOEM will continue to review and update its guidance documents, as applicable. BOEM will notify you in a note to stakeholders when guidance is updated.

Protection of Information

Lessees, grantees, and operators of OCS renewable energy leases and grants should identify any potentially confidential commercial or proprietary information in their plans, reports, documents, or other information submitted to the Bureaus. The Bureaus will protect confidential commercial or proprietary information in accordance with OCSLA, the Freedom of Information Act (5 U.S.C. 552), and the associated implementing regulations.

Guidance Document Statement

BOEM and BSEE issue NTLs as guidance documents to clarify and provide more detail about certain regulatory requirements and to outline the recommended information to be provided in various submittals. This NTL is intended to provide clarity to the public regarding existing requirements and processes related to the Bureaus' administration of renewable energy and other alternate use activities on the OCS. Enforceable legal requirements are set forth in applicable statutes, regulations, and lease provisions.

Paperwork Reduction Act of 1995 Statement

The Office of Management and Budget (OMB) approved the information collection requirement contained in 30 CFR parts 285, 585, and 586 under OMB Control Numbers 1014-NEW and 1010-0176. This NTL does not impose additional information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Contacts

If you have questions regarding this NTL, please contact:

BSEE: Michaela Noble, 1849 C Street NW, Office 5419, Washington, DC 20240; or email: michaela.noble@bsee.gov; or

BOEM: Wright Frank, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, VAM-OREP, Sterling, VA 20166; or email: Wright.Frank@boem.gov.

Signatures

Kevin M. Sligh, Sr.
Director, Bureau of Safety and Environmental Enforcement

Amanda Lefton
Director, Bureau of Ocean Energy Management

Appendix A –Industry Submittals to BOEM

This section updates the jurisdiction and office address of each BOEM regional office where applicants should file for renewable energy leases and grants and alternate use grants on the U.S. OCS.

Applications for renewable energy leases, RUEs, ROWs, and Alternate Use RUEs should be filed as outlined below.

Project Location	Filing Address
Delaware; Florida (South Atlantic and Straits of Florida Planning Area); Georgia; Maine; Maryland; Massachusetts; New Hampshire; New Jersey; New York; North Carolina; Rhode Island; South Carolina; Virginia	Bureau of Ocean Energy Management Office of Renewable Energy Programs Attn: Program Manager Mail Stop VAM-OREP 45600 Woodland Road Sterling, Virginia 20166 Phone: 703-787-1300 Email: renewableenergy@boem.gov
Alabama; Florida (Eastern Gulf of Mexico Planning Area); Mississippi; Louisiana; Texas	Bureau of Ocean Energy Management Gulf of Mexico Regional Office Attn: Renewable Energy Program Lease Applications – Mail Stop GM276A RUEs – Mail Stop GM235D ROWs – Mail Stop GE1035A 1201 Elmwood Park Blvd. New Orleans, Louisiana 70123 Phone: 800-200-GULF Email: renewableenergygomr@boem.gov
California; Hawaii; Oregon; Washington	Bureau of Ocean Energy Management Pacific Regional Office Mail Stop CM 102 760 Paseo Camarillo, Suite 102 Camarillo, California 93010-6002 Phone: 855-320-1484 Email: renewableenergypocs@boem.gov
Alaska	Bureau of Ocean Energy Management

	<p>Alaska Regional Office Mail Stop AM500 Centerpoint Building 3801 Centerpoint Drive, Suite 500 Anchorage, Alaska 99503-5823</p> <p>Phone: 907-334-5200</p> <p>Email: renewableenergyakr@boem.gov</p>
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BOEM considers an Adobe PDF file stored on a compact disc or other storage media device to be an acceptable format for submitting an electronic copy via mail or other delivery service. Submission of electronic copies can also be accomplished by sending via e-mail.

Appendix B –Industry Submittals to BSEE

TIMS Web

BSEE will implement an internet-based system called the TIMS Web (<https://timsweb.bsee.gov>) that provides a tool for regulated entities or their authorized representatives to exchange information with BSEE electronically on April 3, 2023. This system will replace the need to submit renewable-related applications, reports, notices, or other submissions, including your SMS, to BSEE in hard copies per 30 CFR 285.110.

This system will also replace the need to submit information to the following email addresses: bseeosrd-gomr@bsee.gov, OSWsubmittals@bsee.gov, marinedebris@bsee.gov, env-compliance-arc@bsee.gov, protectedspecies@bsee.gov, or benthic.ecology@bsee.gov as detailed in your terms and conditions of COP approval, if applicable.

The TIMS Web system will be available for preview beginning March 1, 2023, and will allow formal submittals beginning April 3, 2023. Prior to April 3, 2023, you should submit information to BSEE as required by 30 CFR 285 and your terms and conditions of COP approval. The ‘Exceptions to using TIMS Web’ section below should be adhered to. For questions on how to submit offshore renewable energy information to BSEE prior to April 3, 2023, please contact BSEE at OSWsubmittals@bsee.gov.

Exceptions to Using TIMS Web

TIMS Web **should not** be used when an immediate oral notification is required per 30 CFR 285.831(a). Immediate oral notifications should be made by calling BSEE’s dedicated incident reporting phone number at (703) 787-1050.

A written report following an incident, as required in § 285.831, may be submitted through TIMS Web or through USPS mail to:

Bureau of Safety and Environmental Enforcement
Safety and Incident Investigations Division
45600 Woodland Rd RM 134
Sterling, VA 20166

When a lease or plan term or condition requires immediate notification related to a marine archaeological discovery or protected species, the notification should be sent to the BSEE email address specified in the term or condition.

Oil Spill Response Plans

For OSRPs, you may electronically submit your initial OSRP and any subsequent revisions to your OSRP to BSEE using TIMS Web. You may reach out to the regional oil spill preparedness division (OSPD) leads at the phone number below for assistance with submitting your OSRP through TIMS Web if needed.

If you need to send hard copies of your OSRP documents to BSEE, use the following addresses:

- For offshore facilities located in the Atlantic Ocean,
 - send documents to

Bureau of Safety and Environmental Enforcement
Oil Spill Preparedness Division
Attention: Senior Preparedness Analysts
45600 Woodland Road, Suite #225
Sterling, VA 20166
 - call 703-787-1051 for assistance with your OSRP.
- For offshore facilities located in the Gulf of Mexico,
 - send documents to

Bureau of Safety and Environmental Enforcement
Oil Spill Preparedness Division
Attention: Gulf Oil Spill Preparedness Section Supervisor
1201 Elmwood Park Boulevard
New Orleans, LA 70123-2394
 - call 504-731-1444 for assistance with your OSRP.
- For offshore facilities located in the Pacific Ocean (except for Alaska),
 - send documents to

Bureau of Safety and Environmental Enforcement
Oil Spill Preparedness Division
Attention: Senior Analyst
760 Paseo Camarillo, Suite #102,
Camarillo, CA 93010-6002
 - call 805-384-6326 for assistance with your OSRP.
- For offshore facilities located offshore of Alaska,
 - send documents to

Bureau of Safety and Environmental Enforcement

Oil Spill Preparedness Division
Attention: Senior Analyst
3801 Centerpoint Drive, Suite #500
Anchorage, AK 99503-5823

- call 907-334-5279 for assistance with your OSRP.

BSEE will accept hard copies and information sent to the above-mentioned addresses and/or email addresses; however, BSEE recommends that you submit renewable energy related forms and documents electronically in TIMS Web. BSEE believes this electronic submittal system offers a more reliable means of presenting, reviewing, and taking actions regarding these submissions and allows you to track the status of your submittals.

TIMS Web User Access

Anyone interested in using the TIMS Web system must first register for an account. Guidance and information on obtaining access to the TIMS Web system and User Access Request forms can be found in the application manual available on BSEE's website at

<https://www.bsee.gov/sites/bsee.gov/files/bsee-policy-manual-section/ocs-operations/ewell-permitting-and-reporting-system-application-manual.pdf> _

(This application manual is an updated version of the manual attached to NTL No. 2014-N03.)

Contacts for TIMS Web Questions

- To report technical problems with TIMS Web, you may contact the BSEE Enterprise IT Service desk Monday through Friday, between the hours of 6:30 a.m. and 5:00 p.m. (Central time) at 1-877-256-6260, or any time at EnterpriseITServiceDesk@bsee.gov.
- For information regarding registration procedures for new user accounts or the TIMS Web application, including general training, user help, and future enhancements, you may contact Tara Shifflett, eSubmittal coordinator, by email at Tara.Shifflett@bsee.gov.