

Bureau of Ocean Energy Management and Bureau of Safety and Environmental Enforcement

Memorandum of Agreement

NEPA and Environmental Compliance

I. Purpose

This Memorandum of Agreement (MOA) establishes a general framework for coordination between the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE) (collectively the “Bureaus”) on environmental issues. The MOA outlines the Bureau’s National Environmental Policy Act (NEPA) responsibilities to ensure adequate environmental review of energy and marine mineral resource activities on the Outer Continental Shelf (OCS). Through this MOA, the two bureaus intend to minimize duplication of efforts, promote consistency in procedures and regulations, and resolve disputes. A separate, overarching 2011 Memorandum of Understanding (MOU) describes the general relationship between the Bureaus (2011 BOEM/BSEE MOU).¹

Cooperation between the Bureaus will ensure that that they meet their responsibilities under the Outer Continental Shelf Lands Act (OCSLA), NEPA, other applicable federal laws, Executive Orders (E.O.), and Secretary’s Orders (S.O.), in connection with authorizing energy and marine mineral resource activities on the OCS.

II. Authorities

Both BOEM and BSEE derive authority over energy and marine mineral resource activities from OCSLA, the Oil Pollution Act of 1990, and Departmental delegations of authority.

III. Responsibilities

The 2011 BOEM/BSEE MOU established the working relationship of the Bureaus in managing certain activities on the OCS. It takes into account the crucial need for information sharing and other links between BSEE and BOEM that are essential to ensuring that the administrative and regulatory processes related to offshore leasing, plan approval, and permitting are conducted effectively and efficiently. As outlined in the 2011 BOEM/BSEE MOU, BOEM is responsible for managing development of the Nation’s offshore resources in an environmentally and economically responsible way. BOEM’s functions include: leasing, plan administration, environmental studies, NEPA analysis (on behalf of itself and BSEE), resource evaluation, economic analysis, and the renewable energy program. BSEE is responsible for enforcing safety and environmental protection regulations. BSEE’s functions include all field operations, including permitting, inspections, technology assessment and research, offshore regulatory programs, oil spill response planning, and training.

BSEE will serve as a cooperating agency on most BOEM-initiated NEPA documents. The Bureaus will coordinate their responsibilities for complying with Departmental guidance. Both BOEM and BSEE staff will serve on the Project² and Review Teams³ for all BSEE NEPA projects managed by BOEM. BOEM

¹ Memorandum of Understanding between the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement, signed October 1, 2011.

² Project Teams include, but are not limited to, NEPA staff, assigned Senior Executive Service members or their designees, project managers, subject matter experts, an attorney from the Office of the Solicitor, contractors, planners, and others who work on the EIS at the field level (see April 27, 2018 Deputy Secretary Memorandum regarding Additional Direction for Implementing S.O. 3355).

³ The Review Team is composed of the following officials, as appropriate to the EIS subject matter: Regional Director,

will, in most cases, manage the NEPA process for BSEE, ensuring compliance with Departmental guidance, including maintaining project information in the DOI NEPA and Permit Tracking Database, reporting costs associated with developing the NEPA analysis, meeting page and time limits or submitting any necessary waivers, and completing the document clearance process. The first BOEM senior executive service (SES) member with line authority over the proposed action will be responsible for those NEPA processes, and will ensure that the Bureaus meet the timeline and page goals.

When BSEE is the sole decision maker for a proposed action and the NEPA document is initiated by BSEE, but drafted by BOEM, the first BSEE SES member with line authority over the proposed action (or his or her designee) will be responsible for complying with the requirements of Departmental guidance. BOEM will provide the NEPA analysis (or coordinate a contractor drafted NEPA document), maintain project information in the DOI NEPA and Permit Tracking Database, track costs associated with the development of the NEPA analysis, and meet the required page and time limits. The appropriate BOEM SES member will remain responsible for compliance with the NEPA process and will cooperate with BSEE in any way necessary to complete that process in a timely and effective manner. BSEE will be responsible for completing the document clearance process and submitting any necessary waivers.

If any issue or dispute arises between agencies regarding the NEPA process, the Bureaus will address the issues expeditiously to avoid delay. The Bureaus will seek to resolve any issues or disputes at the project staff level before elevating the issues to senior staff. If project staff have not reached a resolution within seven days following a project milestone, the project staff will elevate the issues to the responsible SES members for consideration and resolution.

Responsibilities for specific activities are provided in the following appendices:

Appendix 1 lists the responsibilities for activities under each Bureau's jurisdiction.

Appendix 2 lists the coordination responsibilities of each Bureau.

Additional MOAs under the 2011 BOEM/BSEE MOU that describe other BOEM/BSEE coordinated responsibilities and activities related to NEPA and environmental compliance include:

The Geological Data MOA, which establishes policies and practices regarding geological data to ensure operations maximize ultimate recovery of hydrocarbons and develop all economically producible reservoirs according to sound conservation, engineering, and economic practices.

The Plans and Permits MOA, which establishes the management of certain activities associated with review, analysis, and approval of OCS Plans and Permits. BOEM and BSEE subject matter experts (SMEs) conduct plan and permit reviews that may include some or all of the following: air quality reviews, water quality reviews, archaeological reviews, chemosynthetic/benthic communities biological reviews, development conservation reviews, NEPA coordination reviews, geological and geophysical reviews, oil spill response plan reviews, coastal zone management reviews, and supplemental bonding reviews.

The Enforcement Activities MOA, which establishes a general framework for a timely and appropriate enforcement response to address noncompliance with laws, regulations, leases, plans, permits, etc. under BOEM/BSEE jurisdiction.

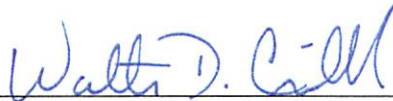
The Marine Minerals Program MOA, which ensures the timely review and authorization of proposed activities that use sand, gravel, or shell resources from the OCS.

Bureau Director, Assistant Secretary, OEPC Director, Deputy Solicitor, Office of the Deputy Secretary, and the Chief of Staff (see April 27, 2018 Deputy Secretary Memorandum regarding the NEPA Document Clearance Process).

IV. Modifications and Interpretations

The Bureaus will make modifications to this MOA with the written consent of both Bureaus' 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 standard operating procedures (SOPs). The SOPs may be modified with the written consent of both Bureaus' appropriate regional director or senior executive.

V. Signatures



Walter D. Cruickshank, Acting BOEM Director

10-1-2018
Date



Scott A. Angelle, BSEE Director

10-1-2018
Date

Appendix 1: Bureau Responsibility by Activity

Activity	BOEM	BSEE
<p>Plans (Exploration Plans (EPs), Development Operations Coordination Documents (DOCDs), Development and Production Plans (DPPs), Decommissioning)</p>	<ul style="list-style-type: none"> ● Conduct the site-specific environmental analyses and prepare the appropriate NEPA document (i.e., categorical exclusion review (CER), site-specific environmental assessment (SEA), or environmental impact statement (EIS)) for the respective plan submittal. ● Assist in any Post-Activity environmental compliance review, as requested by BSEE. ● Incorporate analyses of mitigation effectiveness into BOEM’s future NEPA analyses using feedback from BSEE. 	<ul style="list-style-type: none"> ● Conduct Post-Activity Submittal (PAS) review and other office compliance verification work. ● Oversee any requisite environmental monitoring and/or inspections of associated OCS activities (e.g., related to protected species requirements, water quality checks, anchoring concerns, air quality inventory issues). ● Document Post-Activity environmental compliance and mitigation effectiveness. ● Oversee any requisite enforcement actions, including issuance of incidents of noncompliance (INCs), development/verification of subsequent corrective actions, and assessment of civil penalties.
Activity	BOEM	BSEE
<p>Geological and Geophysical (G&G) Permit Applications (30 CFR 551.580)</p>	<ul style="list-style-type: none"> ● Conduct the site-specific environmental analyses and prepare the appropriate NEPA document (i.e., CER, SEA, or EIS) for the respective Permit Application. ● Assist in any Post-Activity environmental compliance review, as requested by BSEE. ● Incorporate analyses of mitigation effectiveness into BOEM’s future NEPA analyses using feedback from BSEE. 	<ul style="list-style-type: none"> ● Conduct PAS review and other office compliance verification work. ● Oversee any requisite environmental monitoring and/or inspections of associated OCS activities (e.g., related to protected species requirements, water quality checks, anchoring concerns, air quality inventory issues). ● Document Post-Activity environmental compliance and mitigation effectiveness. ● Oversee any requisite enforcement actions, including issuance of INCs, development/verification of subsequent corrective actions, and assessment of civil penalties.

Activity	BOEM	BSEE
<p>Applications for Permit to Drill (APDs)</p>	<ul style="list-style-type: none"> ● Prepare additional NEPA documents related to BSEE APDs, as requested by BSEE. ● Assist in any Post-Activity environmental compliance reviews, as requested by BSEE. ● Incorporate analyses of mitigation effectiveness into BOEM’s future NEPA analyses using feedback from BSEE. 	<ul style="list-style-type: none"> ● Review the associated EP, DOCD, or DPP to determine if the operations proposed in the APD were fully addressed in the plan. ● Determine if the SEA or EIS prepared on the EP, DOCD, or DPP associated with the subject APD is adequate for BSEE needs; whether a BSEE CE is available and whether an extraordinary circumstance may exist (in the case of a BSEE CER), and/or if supplemental NEPA analysis is required. ● Review and adopt any additional BOEM NEPA analysis (consistent with CEQ requirements for adoption), if requested. ● Document decision making for approval/disapproval of the associated APD. ● Conduct PAS review and other office compliance verification work. ● Oversee any requisite environmental monitoring and/or inspections of associated OCS activities (e.g., related to protected species requirements, water quality checks, anchoring concerns, air quality inventory issues). ● Document Post-Activity environmental compliance and mitigation effectiveness. ● Oversee any requisite enforcement actions, including issuance of INCs, development/verification of subsequent corrective actions, and assessment of civil penalties.
Activity	BOEM	BSEE
<p>Application for Permit to Modify/Revised Application for Permit to Modify (APMs/RPMs) Proposing Explosive Use</p>	<ul style="list-style-type: none"> ● Prepare additional NEPA documents related to BSEE APMs/RPMs, as requested by BSEE. ● Assist in any Post-Activity environmental compliance review, as requested by BSEE. ● Incorporate analyses of mitigation effectiveness into BOEM’s future NEPA analyses using feedback from BSEE. 	<ul style="list-style-type: none"> ● Assist in the coordination of the NEPA review of any APM/RPM proposing explosive well severance (e.g., initial BOEM assignments, data gathering, eWell coordination). ● Determine if the Plan SEA or EIS is adequate for BSEE decision making needs, whether a BSEE CE is available and whether an extraordinary circumstance may exist (in the case of a BSEE CER), and/or if supplemental NEPA analysis is required. ● Document decision making for approval/disapproval of the associated APM/RPM. ● Conduct PAS review and other office compliance verification work. ● Oversee any requisite environmental monitoring and/or inspections of associated OCS activities (e.g., related to protected species requirements, water quality checks, anchoring concerns, air quality inventory issues). ● Document Post-Activity environmental compliance and mitigation effectiveness. ● Oversee any requisite enforcement actions; including issuance of INCs, development/verification of subsequent corrective actions, and assessment of civil penalties.

Activity	BOEM	BSEE
<p>Pipeline Permit Applications (Right-of-Way (ROW) & Lease Term (LT) Pipeline Permits for Installation, Modification, Decommissioning)</p>	<ul style="list-style-type: none"> ● Prepare additional NEPA documents related to BSEE ROW or LT pipeline permits, as requested by BSEE. ● Assist in any Post-Activity environmental compliance review, as requested by BSEE. ● Incorporate analyses of mitigation effectiveness into BOEM’s future NEPA analyses using feedback from BSEE. 	<ul style="list-style-type: none"> ● Assist in the coordination of the NEPA review of all Permit Applications for the installation or modification of ROW or LT Pipelines (e.g., TIMS assignments [via coordination reviews], data gathering). ● Determine if an existing NEPA analysis is adequate for BSEE needs (e.g., SEA or EIS), or whether a BSEE CE is applicable. BSEE adopts as appropriate a BOEM NEPA document for this purpose or ensures the BSEE CER is prepared. ● Document decision making for approval/disapproval of the associated ROW or LT pipeline permits. ● Conduct PAS review and other office compliance verification work. ● Oversee any requisite environmental monitoring and/or inspections of associated OCS activities (e.g., related to protected species requirements, water quality checks, anchoring concerns, air quality inventory issues). ● Document Post-Activity environmental compliance and mitigation effectiveness. ● Oversee any requisite enforcement actions, including issuance of INCs, development/verification of subsequent corrective actions, and assessment of civil penalties.
Activity	BOEM	BSEE
<p>Structure-Installation/Modification/Repair Permit Applications</p>	<ul style="list-style-type: none"> ● Prepare additional NEPA documents related to BSEE structure permits, as requested by BSEE. ● Assist in any Post-Activity environmental compliance review, as requested by BSEE. ● Incorporate analyses of mitigation effectiveness into BOEM’s future NEPA analyses using feedback from BSEE. 	<ul style="list-style-type: none"> ● Review the associated EP, DOCD, or DPP to determine if the operations proposed in the permit application were fully addressed in the plan. ● Determine if the SEA or EIS prepared on the EP, DOCD, or DPP associated with the subject Structure Installation or Modification Permit Application was adequate for BSEE needs, whether a BSEE CE is applicable and whether an extraordinary circumstance may exist (in the case of a BSEE CER), and/or if supplemental NEPA analysis is required. ● Prepare the appropriate BSEE decision document for the associated permit. ● Conduct PAS review and other office compliance verification work. ● Oversee any requisite environmental monitoring and/or inspections of associated OCS activities (e.g., related to protected species requirements, water quality checks, anchoring concerns, air quality inventory issues). ● Document Post-Activity environmental compliance and mitigation effectiveness. ● Oversee any requisite enforcement actions, including issuance of INCs, development/verification of subsequent corrective actions, and assessment of civil penalties.

Activity	BOEM	BSEE
<p align="center">Structure-Removal Permit Applications</p>	<ul style="list-style-type: none"> 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. Assist in any Post-Activity environmental compliance review, if requested by BSEE. Incorporate analyses of mitigation effectiveness into BOEM’s future NEPA analyses using feedback from BSEE. 	<ul style="list-style-type: none"> Assist in the coordination of the NEPA review of all Structure-Removal Permit Applications (e.g., TIMS assignments [via coordination reviews], data gathering). Determine if the SEA or EIS is adequate for BSEE decision making needs. Prepare the associated FONSI for a SEA, if appropriate, or ROD for an EIS necessary to approve the associated permit. Conduct PAS review and other office compliance verification work. Oversee any requisite environmental monitoring and/or inspections of associated OCS activities (e.g., related to protected species requirements, water quality checks, anchoring concerns, air quality inventory issues). Document Post-Activity environmental compliance and mitigation effectiveness. Oversee any requisite enforcement actions, including issuance of INCs, development/verification of subsequent corrective actions, and assessment of civil penalties.
Activity	BOEM	BSEE
<p align="center">Marine Minerals</p>	<ul style="list-style-type: none"> Prepare NEPA analyses (e.g. EA or EIS) associated with the issuance of leases and negotiated agreements for use of mineral resources of the OCS. Manage OCS mineral resources including but not limited to environmental studies, project development, conflict of use resolution, and inventory of mineral resources. 	<ul style="list-style-type: none"> Coordinate with BOEM on new and proposed sand borrow area locations and locations of significant sand resources. Coordinate with BOEM on commercial development of mineral resources on OCS. When appropriate, BSEE will participate in project specific teams and work with BOEM to determine setback distances, resolve potential multi-use conflicts, and avoid placement of oil and gas pipelines and appurtenant structures within significant sand resources. Oversee any environmental monitoring (e.g., related to protected species requirements, anchoring concerns) and/or document Post-Activity environmental compliance and mitigation effectiveness.
Activity	BOEM	BSEE
<p align="center">Procurement of Environmental Studies Program (ESP) Projects</p>	<ul style="list-style-type: none"> Prepare the ESP’s annual Studies Development Plan (SDP). Plan and conduct meetings of the Committee on Offshore Science and Assessment. Lead the design and conduct of environmental studies. Solicit and incorporate input from partners into study design and on interim study products. Disseminate products, results, and information from completed studies to those using them in their work products. 	<ul style="list-style-type: none"> Provide input to the ESP’s annual SDP. Attend and participate in meetings of the Committee on Offshore Science and Assessment. Participate in the development and conduct of studies as appropriate. Receive results of studies and use in work products as appropriate.

Appendix 2: Bureau Coordination Responsibilities by Regulation

Authorities	Requirement	BOEM	BSEE
<p>Clean Air Act (CAA)</p> <p>43 U.S.C. 1334(a)(8) (OCSLA mandate regarding air issues on the OCS); <i>see also</i> 42 U.S.C. 7401 <i>et seq.</i></p> <p>30 CFR 550.302-304</p> <p>40 CFR Part 55</p>	<p>General Compliance Requirements The CAA seeks to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population. It sets national ambient air quality standards (NAAQS) for certain pollutants.</p> <p>OCSLA requires BOEM to ensure ambient air quality standards are not exceeded within any state for authorized projects. 43 U.S.C. 1334.</p> <p>BOEM has air jurisdiction in the Gulf of Mexico OCS (west of 87.5°W longitude), in the Beaufort Sea, Chukchi Sea, and part of the Hope Basin. BOEM ensures the ambient air quality standards are not exceeded in these Planning Areas. Analysis and determination happens at plan review level.</p> <p>The U.S. Environmental Protection Agency (USEPA) has air jurisdiction in the Gulf of Mexico (east of 87.5° W longitude) and in all other planning areas not listed above. BOEM will still analyze impacts of the emissions that result from plan approval on ambient air quality in its NEPA analyses but the operator/lessee will also need to receive a permit from the USEPA.</p>	<ul style="list-style-type: none"> ● Conduct air quality analyses for NEPA reviews of proposed actions with potential impacts to air quality, including five-year programs and lease sales. ● Conduct air quality emissions inventories. ● Review all submitted plans and pipeline applications (which are submitted to BSEE and then sent to BOEM for review) to ensure that emissions do not cause state proposed ambient air quality to exceed the NAAQS. ● Serve as lead agency, with BSEE input, on general conformity determinations (CD), when required. CDs must be done for any BOEM action near an EPA-designated nonattainment area that would result in emissions above a given threshold. The CD is prepared by the action agency and provided to EPA, state(s) and Federal Land Managers (FLM) to demonstrate that the project would conform to the EPA-approved State Implementation Plan. (CDs are generally not required for most OCS actions, as most actions are in areas under BOEM jurisdiction for purposes of air quality. <i>See</i> 42 U.S.C. 7627). ● Keep federal, state, and local agencies informed about OCS emission inventories prepared by BOEM. Provide data when requested. ● Coordinate with BSEE on mitigations included as conditions of plan/permit approvals. ● Periodically meet with BSEE to review industry compliance trends and adaptively adjust mitigation where needed. 	<ul style="list-style-type: none"> ● Review permit applications against BOEM ambient air quality review on associated plans during NEPA compliance review to ensure consistency with analysis and additional BOEM lease or plan requirements. ● Monitor and inspect industry compliance with plan and permit requirements. Enforce applicable DOI or Bureau regulations and any applicable conditions of approvals (COAs) on permits and plans. Track trends. ● Serve as lead agency with federal, state, and local agencies regarding current knowledge of emission control technologies. ● Inform USEPA, states, and FLM regarding any equipment breakdowns, which could result in adverse impacts onshore (any needed air quality analyses would be reviewed by BOEM). ● Periodically meet with BOEM to provide feedback on compliance trends and adaptively adjust mitigation where necessary. ● Submit any required reporting to USEPA, state(s), or FLM in coordination with BOEM.

Authorities	Requirement	BOEM	BSEE
<p>Clean Water Act</p> <p>33 U.S.C. 1251 <i>et seq.</i></p> <p>P.L. 95-217</p> <p>40 CFR Part 435</p> <p>66 Fed. Reg. 6,850 (Jan. 22, 2001)</p> <p>71 Fed. Reg. 35,005 (June 16, 2006)</p>	<p>MOU with USEPA on NPDES Compliance</p> <p>Offshore operators must receive a General or Site-Specific National Pollutant Discharge Elimination System (NPDES) permit and/or Vessel General Permit (VGP) before BOEM and BSEE can approve offshore activities that propose discharges to the ocean.</p> <p>A 1984 MOU improves coordination between USEPA and DOI to determine the terms and conditions of NPDES permits and ensure NPDES permit compliance for OCS oil and gas activities. Provisions include: (1) identify NPDES requirements prior to lease sale (BOEM); (2) develop and exchange studies information (BOEM); (3) coordinate NEPA responsibilities (BOEM); (4) monitor and inspect OCS facilities for compliance with NPDES permit (BSEE); and (5) coordinate compliance verification and sampling with EPA (BSEE).</p>	<ul style="list-style-type: none"> ● In coordination with BSEE, assist USEPA with development of its NPDES General Permits (e.g., when USEPA requests technical guidance on industry technology or practices). ● Identify information requirements for determining the terms and conditions of NPDES permits, when requested. ● Review all submitted plans to ensure that offshore operators receive NPDES permits (as needed). ● Provide input to BSEE on environmental inspections, compliance efforts, and OCSLA enforcement actions. 	<ul style="list-style-type: none"> ● In coordination with BOEM, assist USEPA in the development of its NPDES General Permits (e.g., when USEPA requests technical guidance on industry technology or practices). ● Review all permitting to ensure compliance with NPDES terms and conditions and BOEM mitigations. ● Monitor and review industry compliance with NPDES General Permits (up to 50 inspections annually in GOMR), VGPs, and BOEM required mitigations. ● Report NPDES violations to USEPA and enforce applicable DOI or Bureau regulations and COAs of plans or permits. Track trends. ● Submit any required reporting to USEPA in coordination with BOEM.

Authorities	Requirement	BOEM	BSEE
<p>Coastal Zone Management Act 16 U.S.C. 1451 <i>et seq.</i> 15 CFR Part 930</p>	<p>Consistency Determinations Federal actions that have reasonably foreseeable coastal effects on any land or water use or natural resource of the coastal zone (also referred to as coastal uses or resources, or coastal effects) should be consistent to the maximum extent practicable with the enforceable policies of a coastal state’s federally approved Coastal Management Plan.</p>	<ul style="list-style-type: none"> ● Submit Consistency Determinations (CDs) for federal agency activities (i.e., lease sales, Marine Minerals Program projects) to the affected state(s) to determine whether the federal agency activity is “consistent to the maximum extent practicable” with the enforceable policies of the state’s Coastal Management Plans. Seek concurrence from state(s) on prepared CDs. If the state(s) do not respond in a timely manner on the prepared CDs, the federal agency can presume concurrence. Where concurrence is not granted, determine whether to accept state(s) alternative measures or work through dispute resolution processes. If unsuccessful, BOEM can then document its finding of consistency, notify state(s) and decide to proceed or suspend the lease sale. ● Ensure operators/lessees include CZMA-required Consistency Certifications (CCs) in all applicable EPs, DOCs, DPPs and submit the plans to all affected state(s) and ensure that applicants submit CCs with associated permit applications (e.g., G&G survey) to all affected state(s). ● Coordinate with BSEE on mitigations resulting from CDs and included as part of the proposed action in the CDs. ● Periodically meet with BSEE to review industry compliance trends and adaptively adjust mitigation where needed. 	<ul style="list-style-type: none"> ● Ensure that applicants submit CCs with associated permit applications (e.g., decommissioning activities, and ROW pipeline applications) to all affected state(s). ● Monitor and inspect industry compliance with requirements to ensure CZMA compliance. Enforce applicable DOI or Bureau regulations and COAs of permits or plans. Track trends. ● Periodically meet with BOEM to provide feedback on compliance trends and adaptively adjust mitigation where necessary. ● Ensure operators/lessees have received concurrence from coastal state(s) prior to approving BSEE decommissioning permits.

Authorities	Requirement	BOEM	BSEE
<p>Endangered Species Act</p> <p>16 U.S.C. 1531 <i>et seq.</i></p> <p>50 CFR Part 402</p> <p>http://www.fws.gov/endangered/esa-library/pdf/consultations.pdf</p>	<p>Section 7 Consultations</p> <p>Section 7(a) requires all federal agencies to ensure that any action they authorize "...is not likely to jeopardize...any endangered/threatened species...or adversely modify designated critical habitat." Assurance is provided through a consultation process with U.S. Fish and Wildlife Service (FWS)/National Marine Fisheries Service (NMFS) (depending on the species).</p> <p>Federal action is defined as any action to authorize, fund, or otherwise carry out. Applies to both BOEM (lease sales, plan and G&G permit approvals) and BSEE (structure removal and pipeline permits). Further, ESA requires interdependent and interrelated actions to be analyzed together.</p>	<ul style="list-style-type: none"> ● Serve as lead agency on BOEM/BSEE joint consultations covering OCSLA leasing, G&G surveys, and most OCS activities covered under BOEM and BSEE plans (e.g., drilling, platform installation, lease development) and permits. ● Prepare, with BSEE as appropriate, biological assessments and other consultation documents for structure removal consultations in the GOM. (These include activities that fall under sole purview of BSEE (e.g., decommissioning)). ● Ensure submitted plans and G&G permit applications (under BOEM) and well abandonment, pipeline, and structure-removal permit applications (under BSEE) provide information on how operator will conduct activities in a manner consistent with Reasonable and Prudent Measures and Terms and Conditions adopted by BOEM following ESA consultation. ● Coordinate with BSEE on mitigations included as part of the consultation (e.g., for inclusion in BSEE issued permits). ● Periodically meet with BSEE to review industry compliance trends and adaptively adjust mitigation where needed. ● Reinitiate consultations when required. 	<ul style="list-style-type: none"> ● Serve as lead agency on BOEM/BSEE joint consultations covering decommissioning activities (all permitted by BSEE). ● Review all materials prepared by BOEM for consultations to ensure all BSEE considerations are covered. ● Review and ensure permits: (1) are consistent with the consultation; and (2) comply with the Reasonable and Prudent Measures and Terms and Conditions of any issued ESA Incidental Take Statement (ITS) and other BOEM lease or plan requirements. ● Monitor and inspect industry compliance with applicable lease stipulations and COAs of plans or permits to ensure ESA compliance. Enforce such lease stipulations or COAs. Track trends for future ESA analyses. ● Periodically meet with BOEM to provide feedback on compliance trends and adaptively adjust mitigation where necessary. ● Prepare and submit (on behalf of BOEM and BSEE) ESA compliance reports (generally annual reports reflecting incidental take that occurred in ending year). ● Immediately report any violations of mitigations or ITS to FWS/NMFS with copy to BOEM.

Authorities	Requirement	BOEM	BSEE
<p>Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA)</p> <p>16 U.S.C. 1801 <i>et seq.</i></p> <p>50 CFR Part 600</p>	<p>Essential Fish Habitat (EFH) Consultation</p> <p>Federal agencies must consult with NMFS with respect to any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, that may adversely affect any essential fish habitat identified under the MSFCMA.</p> <p>EFH consultations are usually developed in coordination with NEPA analyses conducted for the same time period and proposed activities. For oil and gas activities in the GOM, a programmatic consultation is developed based on a 5-year period at the multi-sale level. This is expected to cover planning through permitting. Other consultations may be required or the consultation may be reinitiated if proposed activities are beyond the scope of the existing consultation.</p>	<ul style="list-style-type: none"> ● Serve as lead agency on BOEM/BSEE joint consultations and main point of contact for NMFS throughout consultation periods. ● Prepare programmatic EFH assessments (generally included within NEPA documents at the multi-sale or individual lease sale level (that are inclusive of all resulting BOEM and BSEE activities)) and other project or site specific EFH assessments if required. ● Ensure submitted plans and G&G permit applications and BSEE permit applications provide information that will allow BOEM to ensure those activities are consistent with EFH conservation recommendations and BOEM requirements. ● Coordinate with BSEE on mitigations. ● Periodically meet with BSEE to review industry compliance trends and adaptively adjust mitigation where needed. 	<ul style="list-style-type: none"> ● Review consultation materials prepared by BOEM to ensure coverage of BSEE needs. ● Ensure all post-plan activities authorized by BSEE fall within the conditions and outcomes of the EFH consultation. ● Monitor and inspect industry compliance. Enforce applicable lease stipulations or COAs of permits or plans, track and report violations, and analyze operator performance for trends. ● Generate and submit to BOEM an annual report on compliance trends. ● Report to BOEM violations that may warrant reinitiation of EFH consultation or adjustments to existing mitigation measures.

Authorities	Requirement	BOEM	BSEE
<p>Marine Mammal Protection Act (MMPA)</p> <p>16 U.S.C. 1361 <i>et seq.</i></p> <p>50 CFR Part 216</p>	<p>Incidental Take Authorization</p> <p>MMPA prohibits the taking of marine mammals (i.e., harass, hunt, capture, kill) in all U.S. waters unless an appropriate authorization is obtained for an exempted activity (i.e., certain commercial activities).</p> <p>Entity conducting activity is responsible for voluntarily obtaining take authorization (i.e., lessee or operator). In the GOM, BOEM has submitted a petition for industry to be able to obtain authorizations for seismic surveys given the need for a programmatic, cumulative analysis. Similarly, in GOMR, BSEE is preparing to request authorization for decommissioning activities given the need for a programmatic, cumulative analysis.</p>	<ul style="list-style-type: none"> Coordinate with NMFS as necessary to stay informed of the process including all parties. Explain in site-specific NEPA analyses how operators will conduct activities in a manner consistent with MMPA and BOEM requirements. 	<ul style="list-style-type: none"> Serve as lead agency on BOEM/BSEE processes covering decommissioning activities; prepare incidental-take rulemaking petition package. Review authorization requests prepared by BOEM to ensure BSEE's needs are met. Monitor and inspect industry compliance for ESA-listed species (see ESA consultation above). Enforce applicable lease stipulations and COAs of permits or plans. Track trends. Periodically meet with BOEM to provide feedback on compliance trends and adaptively adjust mitigation where necessary for ESA listed marine mammals. Immediately report to FWS/NMFS any known incidental take of marine mammals. Copy BOEM on all reports.
Authorities	Requirement	BOEM	BSEE
<p>Migratory Bird Treaty Act (MBTA)</p> <p>16 U.S.C. 703 <i>et seq.</i></p> <p>Executive Order 13186</p> <p>Migratory Bird MOU</p>	<p>MOU with FWS</p> <p>MBTA prohibits the "take" of any bird covered under the Act but contains no express provisions for incidental take.</p> <p>Executive Order 13186 directs all federal agencies whose activities could negatively impact migratory birds to enter into a MOU with the FWS that defines how the two agencies will work together to promote migratory bird conservation. Current MOU signed with FWS on June 4, 2009.</p>	<ul style="list-style-type: none"> Coordinate with BSEE and FWS on mitigations (e.g., technical feasibility of mitigations). Periodically meet with BSEE to review industry compliance trends and adaptively adjust mitigation where needed. Serve as lead, with BSEE input, on the FWS MOU renewal as warranted. 	<ul style="list-style-type: none"> Review migratory bird-related portions of NEPA analysis prepared by BOEM to ensure it includes all BSEE-related actions. Monitor and inspect industry compliance. Enforce any applicable lease stipulations and COAs of permits or plans. Periodically meet with BOEM to provide feedback on compliance trends and adaptively adjust mitigation where necessary. Prepare and submit (on behalf of BOEM and BSEE) any required reports to FWS.

Authorities	Requirement	BOEM	BSEE
<p>National Historic Preservation Act (NHPA)</p> <p>54 U.S.C. 300101 <i>et seq.</i></p> <p>36 CFR Part 800</p> <p>Executive Order 11593</p> <p>DOI 519 DM 1 DOI 519 DM 2</p> <p>MMS Manual 620.1-H</p> <p>NTLs 2005-G07, 2011 JOINT-G01, 06-P03 and 05-A03</p> <p>30 CFR 550.194, 550.203(b)(15), 550.203(o), 550.204(b)(8)(v)(A), 550.204(s), and 550.1007(a)(5); 30 CFR 285.74</p> <p>OCSLA 43 U.S.C. 1340(g) (for G&G permits)</p>	<p>Section 106 of the NHPA</p> <p>The NHPA sets forth the policy of the United States that federal agencies use reasonable good faith efforts in identifying, documenting, protecting, and preserving historic properties, as defined at 36 CFR 800.16(1)(1).</p> <p>Both regulation and DOI Standards require agencies to take into account the effects of their actions on historic properties and afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment on such undertakings.</p> <p>The Section 106 review process, promulgated at 36 CFR Part 800, provides the framework for early consultation with parties demonstrating an interest in the effects of the undertaking, including State Historic Preservation Officers, Tribal governments, and the public. The goal is to first identify historic properties, then determine effects (if any), and finally, seek ways to avoid, minimize, or mitigate any adverse effects on historic properties.</p>	<ul style="list-style-type: none"> ● BOEM Federal Preservation Officer (FPO) and Deputy Preservation Officer (DPO) coordinate BOEM’s activities under the NHPA; ensure overall compliance with Section 106 implementing regulations; confirm findings of no effect or no adverse effect for BOEM-approved or permitted activities; ensure appropriate conduct of Section 106 consultations with federally-recognized tribes and other consulting parties. ● Conduct archaeological reviews, in coordination with BSEE, for all BOEM NEPA documents for lease sales, plan approvals, G&G permits, and BSEE permit applications (structure-removal, well abandonment, and pipelines). ● Ensure submitted plans, G&G permit applications, and BSEE permit applications provide information on how operators will conduct activities in a manner consistent with any BOEM requirements resulting from Section 106 consultation. ● Determine whether additional surveys, reports, or other information is required pursuant to BOEM regulations before granting BOEM authorization. ● Coordinate with BSEE on mitigations. ● Periodically meet with BSEE to review industry compliance trends and adaptively adjust mitigation where needed. ● Serve as lead federal agency for BOEM-regulated activities and, for consultations involving BSEE, invite BSEE to serve as cooperating agency. ● As appropriate, participate in consultations when BSEE is serving as lead federal agency. ● Reinitiate consultation, as needed. ● Prepare and maintain joint Historic Preservation Handbook, relevant notices to lessees, etc. 	<ul style="list-style-type: none"> ● BSEE Federal Preservation Officer (FPO) coordinates BSEE’s activities under the NHPA; ensures overall compliance with Section 106 implementing regulations; confirms findings of no effect or no adverse effect for BSEE-approved or permitted activities; ensures appropriate conduct of Section 106 consultations with federally-recognized tribes and other consulting parties. ● Review all materials prepared by BOEM for consultations to ensure that BOEM has addressed all BSEE concerns. ● Ensure all post-plan permitting complies with consultation requirements and BOEM-required mitigations. ● Monitor and inspect industry compliance with requirements to ensure NHPA compliance. Enforce applicable DOI and Bureau regulations, applicable lease stipulations and any COAs of plans and permits. Track trends. ● Periodically meet with BOEM to provide feedback on compliance trends and adaptively adjust mitigation where necessary. ● Prepare and submit (on behalf of BOEM and BSEE) any needed reports. ● Serve as lead federal agency for BSEE-regulated activities and, for consultations involving BOEM, invite BOEM to serve as cooperating agency. ● As appropriate, participate in consultation when BOEM is serving as lead federal agency. ● Support BOEM staff in preparation and maintenance of joint Historic Preservation Handbook, relevant notices to lessees, etc.

Authorities	Requirement	BOEM	BSEE
<p>Consultation and Coordination with Tribal Governments</p> <p>Executive Order 13175</p> <p>Executive Order 12898</p> <p>Presidential Memorandum M-10-33</p> <p>DOI Tribal Consultation Policy</p>	<p>Government-to-government (G2G) consultation</p> <p>E.O. 13175 directs federal agencies to provide meaningful consultation and collaboration with tribal officials, and to promote greater openness in government. Also requires each agency to designate a tribal consultation official to ensure: (1) personnel have considered the fundamental principles of the E.O. in any policymaking or legislative proposals that have tribal implications; (2) meaningful and timely consultations with tribes; and (3) provide certifications of compliance to OMB.</p> <p>E.O. 12898 directs federal agencies to focus federal attention on the environmental and human health effects of federal actions on minority and low-income populations with the goal of achieving environmental protection for all communities.</p>	<ul style="list-style-type: none"> • Designate one or more Tribal Lead Officer(s) (TLO) who are responsible for (1) developing and ensuring compliance with G2G policies; (2) promoting and facilitating G2G consultations; (3) advocating for consideration of tribal positions where consistent with Bureau mission; (4) serving as the principal point of contact for the DOI Tribal Governance Officer; (5) building trust and ongoing relationships with Indian Tribes; (6) serving as an initial contact for Indian Tribes to request or inquire about consultation; and (7) carrying out other responsibilities as assigned by Bureau or Office Consultation Policies. • Prepare and submit (on behalf of BOEM and BSEE) any required G2G reports. 	<ul style="list-style-type: none"> • Designate one or more Tribal Lead Officer(s) (TLO) who are responsible for (1) developing and ensuring compliance with G2G policies; (2) promoting and facilitating G2G consultations; (3) advocating for consideration of tribal positions where consistent with Bureau mission; (4) serving as the principal point of contact for the DOI Tribal Governance Officer; (5) building trust and ongoing relationships with Indian Tribes; (6) serving as an initial contact for Indian Tribes to request or inquire about consultation; and (7) carrying out other responsibilities as assigned by Bureau or Office Consultation Policies. • Enforce applicable DOI and Bureau regulations, applicable lease stipulations and any COAs of plans and permits.

Authorities	Requirement	BOEM	BSEE
<p>Marine Debris Research, Prevention, and Reduction Act</p> <p>33 U.S.C. 1951 <i>et seq.</i></p> <p>30 CFR 250.300</p> <p>2013 Interagency Marine Debris Coordinating Committee (IMDCC) Charter</p> <p>NTL 2015-G03 - Marine Trash and Debris Awareness and Elimination</p>	<p>The Marine Debris Research, Prevention, and Reduction Act directs federal agencies to coordinate on identification of sources of debris, the impacts of debris, and recommendations on the methods to reduce or prevent debris.</p>	<ul style="list-style-type: none"> ● Coordinate with BSEE on incorporation of Marine Trash and Debris (MT&D) oversight into OCS scenarios for NEPA assessments. ● Coordinate with BSEE on NTL and mitigation development/revision needed for OCS activities, and during ESA consultation reviews of the marine debris mitigations. ● As marine debris mitigations are often included in or result from ESA consultations (see above), coordinate with BSEE to ensure such mitigations are included in relevant COAs for relevant permits. ● Periodically meet with BSEE to review industry compliance trends and adaptively adjust mitigation where needed. 	<ul style="list-style-type: none"> ● Manage the OCS MT&D program on behalf of BOEM's and BSEE's OCS programs. ● Coordinate with BOEM on NTL and mitigation development. ● Monitor and review industry compliance with MT&D requirements. Enforce applicable lease stipulations and any COAs of plans and permits. Track trends. ● Periodically meet with BOEM to provide feedback on compliance trends and adaptively adjust mitigation where necessary. ● Submit any required reporting to the IMDCC and/or NMFS/USFWS in coordination with BOEM.