



## Onshore and Offshore Upstream Oil and Gas Operations: Federal Auditing Guide

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### new & noteworthy

- **BOEM Air Quality Control, Reporting, and Compliance Final Rule:** On June 5, 2020, the Bureau of Ocean Energy Management (BOEM) published a final rule (85 FR 34912) that amends the air quality management regulations applicable to activities that BOEM authorizes on the Outer Continental Shelf (OCS) of the United States in the central and western Gulf of Mexico, west of 87.5 degrees longitude and adjacent to the North Slope Borough of the State of Alaska. The following key provisions have been adopted:

- Compliance with the NAAQS;
- Updating the significance levels table;
- Clarifying the emission exemption threshold terminology;
- Replacing the term total suspended particulates;
- Application to development operations coordination document;
- Criteria air pollutants;
- Dispersion modeling; and
- Air quality spreadsheets.

This rule took effect on July 6, 2020. The **Outer Continental Shelf Rulebook** has been updated accordingly.

- **Methane and Waste Prevention Rule Update:** On July 15, 2020, the Northern District of California vacated the Bureau of Land Management's (BLM's) 2018 rule that repeals the 2016 methane waste prevention rule. The court said, "in its zeal, BLM simply engineered a process to ensure a preordained conclusion. Neither the APA, NEPA, or Chevron tolerate such fickle actions." The vacatur was stayed for 90 days and requires BLM to report on anticipated compliance with the 2016 Methane Waste Prevention Rule. On July 21, 2020, the District of Wyoming revived the litigation challenging the 2016 Methane Waste Prevention Rule, which could lead to another potential stay of that regulation pending litigation. The **Bureau of Land Management Rulebook** has been updated accordingly.

# release notes

*please review*

- **Hydraulic Fracturing Rule Update:** On March 27, 2020, the Northern District of California issued a decision that upheld the BLM's repeal of the 2015 hydraulic fracturing rule. In that decision, the court also found that the citizen group plaintiffs did not have standing to sue because they did not allege any current or ongoing environmental harm, but that the state of California plaintiffs did. On June 12, 2020, California and environmental groups filed an appeal of the March 27 decision and the case now goes to the Ninth Circuit Court of Appeals for review of the district court's decision. The **Bureau of Land Management Rulebook** has been updated accordingly.

## highlights of this release

To incorporate amendments to the proposed rule referenced above, changes were made to the **Bureau of Land Management Rulebook:**

- New information was added to the Regulatory Summary in the Introduction concerning the Methane and Waste Prevention Rule and the hydraulic fracturing rule.
- Section summary 3 has been revised as a result of the court ruling regarding the Methane and Waste Prevention Rule.

A number of changes were made to the **Outer Continental Shelf Rulebook:**

- New information was added to the Definitions and Acronyms in the Introduction concerning the BOEM final rule mentioned above.
- Rulebook paragraphs 2.8, and 10.4 have been revised to incorporate changes in BOEM's new rule.

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## did you know?

- **BLM Proposed Rule:** On September 10, 2020, BLM published a proposed rule (85 FR 55940) in the Federal Register that would modify certain provisions of three final rules published in the Federal Register on November 16, 2016, dealing with onshore oil and gas measurement and site security. The BLM reviewed the 2016 Final Rules for opportunities to address implementation challenges and to determine if certain provisions may impose regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation. As a result of this review, the BLM is now proposing to modify certain provisions of 43 CFR Subparts 3170, 3173, 3174, and 3175 to reduce unnecessary and burdensome regulatory requirements. For details, see <https://www.govinfo.gov/content/pkg/FR-2020-09-10/pdf/2020-16393.pdf>.
- **BOEM Guidance Portal:** As of February 28, 2020, all Bureau of Ocean Energy Management (BOEM) guidance documents that are in effect may be found on the guidance portal. See <https://www.boem.gov/guidance>.

- **BSEE issues NTLs:** Bureau of Safety and Environmental Enforcement (BSEE) has issued the following national Notices to Lessees (NTLs):
  - NTL 2020-N01 - Modifications to Form BSEE-0131;
  - NTL 2020-N02 - Revised OCSLA Civil Penalty Assessment Matrix;
  - NTL 2020-N03 - Electronic Submittal System for Pipeline Applications, Plans, Notifications, and Reports;For more information, go to <https://www.bsee.gov/guidance-and-regulations/guidance/notice-to-lessees>.
- **BSEE Posts FAQs for Well Control Regulations:** BSEE has posted on its website, Frequently Asked Questions (FAQs) concerning its “Blowout Preventer System and Well Control Rule” issued in the Federal Register on May 15, 2019. See, <https://www.bsee.gov/guidance-and-regulations/regulations/regulatory-reform/bsee-well-control-rule-2019/frequently-asked-questions-well-control-regulations>.
- **BLM adjusts annual civil penalties for onshore oil and gas operations:** Effective February 25, 2020 (85 FR 10617), BLM increased the level of civil monetary penalties contained in the Bureau’s regulations governing onshore oil and gas operations as shown:
  - \$1,115 for failure to comply;
  - \$11,160 for corrective action not taken;
  - \$1,115 for transporter failing to permit inspection for documentation;
  - \$22,320 for failure to permit inspection, failure to notify; and
  - \$55,800 for false or inaccurate documents; unlawful transfer or purchase.
- **BSEE increases maximum daily civil penalties:** On March 4, 2020 (85 FR 12733) BSEE adjusted the level of maximum civil monetary penalties contained in BSEE’s regulations for violations of the Outer Continental Shelf Lands Act (OCSLA) to \$45,463/day/violation in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget (OMB) guidance. This rule took effect March 4, 2020.
- **BOEM increases civil penalties:** On February 7, 2020, the Bureau of Ocean Energy Management (BOEM) increased maximum civil penalties (85 FR 7218) to the following amounts:
  - \$48,192/day/violation for failure to comply with the financial responsibility requirements of Oil Pollution Act of 1990 (OPA) or the requirements of 30 CFR 553; and
  - \$45,463/day/violation for failure to comply with the requirements of the Outer Continental Shelf Lands Act.