



OFFICE OF  
**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

# U.S. DEPARTMENT OF THE INTERIOR'S OFFSHORE RENEWABLE ENERGY PROGRAM





OFFICE OF  
**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

SEP 25 2013

Memorandum

To: Rhea S. Suh  
Assistant Secretary for Policy, Management and Budget

Tommy P. Beaudreau  
Acting Assistant Secretary for Land and Minerals Management  
Director, Bureau of Ocean Energy Management

Gregory J. Gould  
Director, Office of Natural Resources Revenue

Brian M. Salerno  
Director, Bureau of Safety and Environmental Enforcement

From: Mary L. Kendall *Brian Deleplie*  
Deputy Inspector General *for Mary Kendall*

Subject: Final Evaluation Report – U.S. Department of the Interior’s Offshore Renewable Energy Program  
Report No. CR-EV-BOEM-0001-2013

This memorandum transmits the findings of our evaluation of the U.S. Department of the Interior’s (DOI) Offshore Renewable Energy Program. We reviewed DOI’s ongoing and proposed offshore renewable energy projects, budget and resource planning, process for establishing and collecting renewable energy fees, and inspection and enforcement planning.

We found that DOI does not have updated regulations or detailed standard operating procedures for the Program’s internal processes. We also found that Secretarial Order 3299, which initially placed the Program’s inspection and enforcement function within the Bureau of Safety and Environmental Enforcement (BSEE) to ensure separation of duties between the Bureau of Ocean Energy Management (BOEM) and BSEE, was later amended to place the Program’s inspection and enforcement activities within BOEM, thereby eliminating BSEE’s independent oversight role.

We made four recommendations to enhance DOI’s management of the Program. DOI has an opportunity to improve management oversight and accountability by updating its regulations, documenting policies and procedures, and ensuring that the Program has the proper separation of duties.

Based on management's responses to the draft report (see Appendices 2 and 3), we consider recommendations 1, 2, and 3 resolved but not implemented, and we will refer these recommendations to the Assistant Secretary for Policy, Management and Budget to track implementation (see Appendix 4).

We consider recommendation 4 unresolved because the Acting Assistant Secretary for Land and Minerals Management partially concurred with our initial recommendation in the draft report (see Appendix 4). We revised the recommendation to direct BOEM and BSEE to collaborate on developing the inspection and enforcement function within BSEE. We also modified recommendation 4 by directing it to the Assistant Secretary for Policy, Management and Budget instead of the Acting Assistant Secretary for Land and Minerals Management to avoid a potential conflict of interest because the Acting Assistant Secretary is also the BOEM Director. We request that the Assistant Secretary for Policy, Management and Budget respond to recommendation 4.

Please provide us with your written response within 30 days. The response should provide information on actions taken or planned to address recommendation 4, as well as target dates and titles of officials responsible for implementation. Please address your response to:

Kimberly Elmore  
Assistant Inspector General for Audits, Inspections, and Evaluations  
U.S. Department of the Interior  
Office of Inspector General  
Mail Stop 4428  
1849 C Street, NW.  
Washington, DC 20240

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, evaluation, and inspection reports issued, actions taken to implement our recommendations, and recommendations that have not been implemented.

If you have any questions regarding this report, please do not hesitate to contact me at 202-208-5745.

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## Results in Brief

The U.S. Department of the Interior (DOI) received regulatory authority for offshore renewable energy from Section 388 of the Energy Policy Act of 2005, 43 U.S.C. § 1337(p)(1)(c). DOI assigned the responsibilities for oversight and management of the Offshore Renewable Energy Program (Program) to the Bureau of Ocean Energy Management (BOEM). The Office of Natural Resources Revenue (ONRR) collects fees and revenues associated with offshore renewable energy.

To date, BOEM has issued four commercial leases: one off the coast of Massachusetts to Cape Wind Associates, LLC; one off the coast of Delaware to Bluewater Wind Delaware, LLC; and two off the coast of Rhode Island and Massachusetts to Deepwater Wind New England, LLC. Currently, no offshore wind projects have been constructed. It is anticipated that Cape Wind will begin construction in 2014.

In our evaluation of the Program, we found that BOEM does not have updated regulations and detailed standard operating procedures for the Program's internal processes. We also found that ONRR has not documented its policies and procedures for its processes and responsibilities regarding rental payments and operating fees. In addition, we found that Secretarial Order 3299 was amended to place the inspection and enforcement activities for renewable energy within BOEM, as opposed to the Bureau of Safety and Environmental Enforcement, where it was initially placed to ensure the separation of duties.

We made four recommendations to enhance DOI's management of the Program. DOI has an opportunity to improve management oversight and accountability by updating its regulations, documenting policies and procedures, and ensuring that the Program has the proper separation of duties.

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# Introduction

## Objective

Our objective was to review the effectiveness of the U.S. Department of the Interior's (DOI) Offshore Renewable Energy Program (Program). We reviewed DOI's ongoing and proposed offshore renewable energy projects, budget and resource planning, process for establishing renewable energy fees, and inspection and enforcement program planning (see Appendix 1).

## Background

The Federal Government regulates the Outer Continental Shelf (OCS) through the Outer Continental Shelf Lands Act, 43 U.S.C. §§ 1331 – 56a. Section 388 of the Energy Policy Act of 2005, 43 U.S.C. § 1337 (p)(1)(c) gave the Secretary of the Interior authority to grant a lease, easement, or right-of-way (ROW) for activities on the OCS that produce, transport, or transmit energy from sources other than oil or gas, including wind, solar, or hydrokinetic energy. Secretarial Order 3299, Amendment No. 2, dated August 29, 2011, identified the Bureau of Ocean Energy Management (BOEM) as the entity responsible for managing renewable energy. BOEM regulates the Program through 30 C.F.R. part 585, "Renewable Energy and Alternative Uses of Existing Facilities on the Outer Continental Shelf."

Offshore renewable energy includes three types of sources:

1. Offshore wind energy: Offshore wind turbines are used in a number of countries to harness energy from the air moving over the oceans and convert it to electricity. Offshore wind tends to flow at higher sustained speeds than onshore wind.
2. Ocean wave energy (hydrokinetic): Wave power devices extract energy from the surface motion of ocean waves. A variety of technologies have been proposed to capture that energy, and some designs are undergoing demonstration testing.
3. Ocean current energy (hydrokinetic): Ocean currents contain enormous amounts of energy that can be captured and converted to a usable form. Currently, the Florida coast has the greatest ocean current energy potential. Ocean current energy technology is in an early stage of development.

Because offshore wind energy is currently the only type of commercial offshore renewable energy, we focused our review on this area.

In 2007, BOEM published the "Final Programmatic Environmental Impact Statement for Alternative Energy Development and Production and Alternate Use of Facilities on the Outer Continental Shelf." This document examined the potential environmental impacts related to renewable energy development on the OCS for each phase of development.

An interim policy for offshore renewable energy was announced by BOEM in November 2007, before the final regulations were issued in April 2009. The interim policy allowed for limited leasing and was designed for resource data collection and technology testing activities. The interim policy leases have a 5-year term and provide no subsequent commercial rights.

Secretarial Order 3299 was issued in 2010 to separate the responsibilities of the former Minerals Management Service into new management structures intended to improve management, oversight, and accountability on the OCS and to provide independent safety and environmental oversight of offshore activities. These new management structures included BOEM, with responsibility for resource evaluation, planning, and leasing, and the Bureau of Safety and Environmental Enforcement (BSEE), with responsibility for inspection and enforcement activities.

Also in 2010, DOI launched the “Smart from the Start” initiative to expedite offshore wind energy development off the Atlantic Coast. The initiative facilitates siting, leasing, and construction of new projects, and accelerates development of wind energy sources. The initiative aims to identify priority wind energy areas (WEAs) for potential development and to accelerate the leasing process by 6 to 12 months by eliminating the requirement to issue a second lease notice when there is only one qualified and interested developer, thus expediting the approval process.

BOEM, in consultation with intergovernmental State task forces and other stakeholders, identifies WEAs that appear most suitable for commercial wind energy activities with the least negative impacts. To date, WEAs have been identified on the OCS in Rhode Island, Massachusetts, New Jersey, Delaware, Maryland, and Virginia (see Figure 1). In fiscal years 2013 and 2014, BOEM expects to identify additional areas in North Carolina and other coastal States.

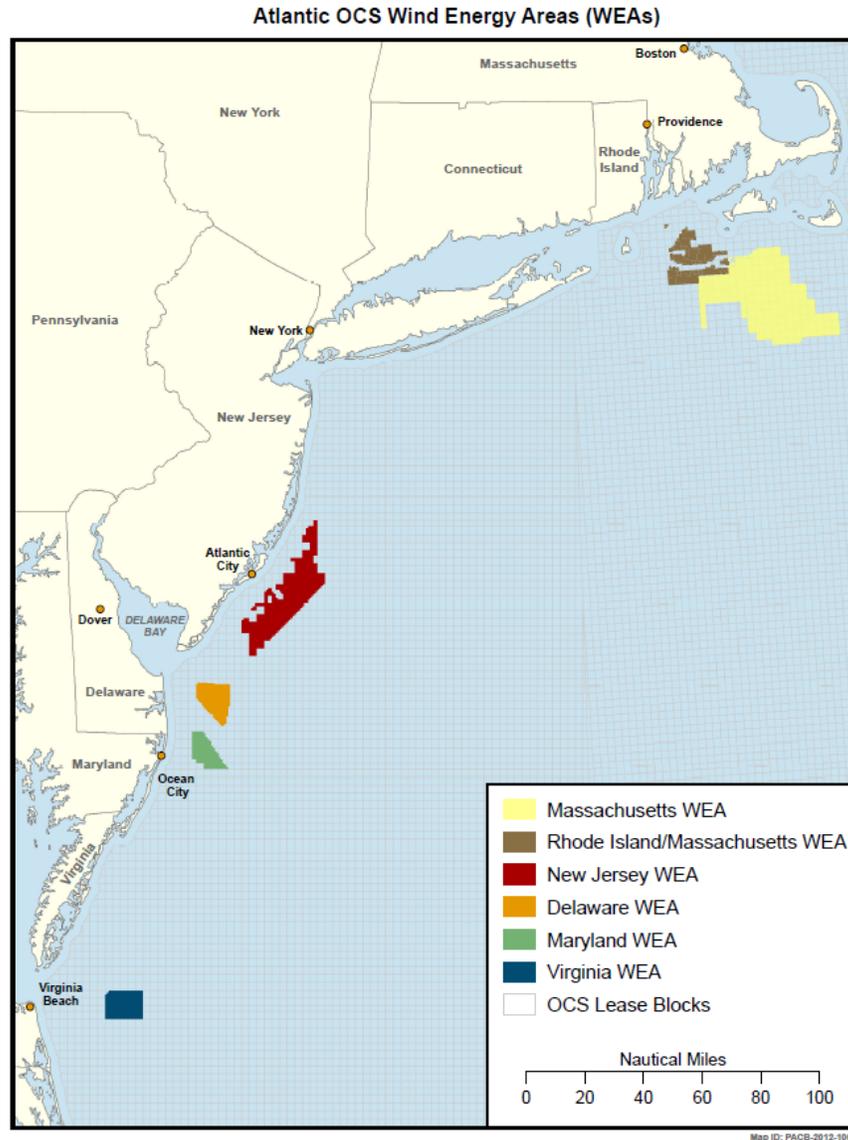


Figure 1. Wind energy areas identified off the Atlantic Coast.

In accordance with the Energy Policy Act of 2005, BOEM issues renewable energy leases and grants on a competitive basis unless it determines no competitive interest exists (30 C.F.R. § 585.201). BOEM has issued four commercial leases:

- Cape Cod, MA: BOEM issued the Nation’s first commercial lease to Cape Wind Associates, LLC, for the right to construct and operate an offshore wind facility in Federal waters. The project area is located on Horseshoe Shoal in Nantucket Sound, between Cape Cod, Martha’s Vineyard, and Nantucket Island. The project consists of 130 wind turbine generators, each rated at 3.6 megawatts per hour, for a total capacity of 468 megawatts. Cape Wind has an average anticipated output of 183

megawatts, and the wind facility is projected to generate 1,600 gigawatt-hours per year. According to BOEM's Web site, at average expected production, Cape Wind could produce enough energy to power tens of thousands of homes in Massachusetts.

- Delaware: BOEM issued a commercial lease to Bluewater Wind Delaware, LLC (a wholly owned subsidiary of NRG Energy, Inc.). This 96,430-acre lease gives Bluewater Wind Delaware the right to submit one or more plans to support the development of an offshore wind facility.
- Rhode Island and Massachusetts: In July 2013, BOEM held the first-ever competitive lease sale for renewable energy in Federal waters. BOEM auctioned a WEA off the coast of Rhode Island and Massachusetts as two leases. The leases were awarded to Deepwater Wind New England, LLC. The North Lease Area consists of about 97,500 acres and the South Lease Area covers about 67,250 acres, totaling 164,750 acres. When built, these areas could generate enough combined energy to power more than one million homes.

BOEM held another competitive auction for a WEA off the coast of Virginia in September 2013. This lease has not yet been issued. Future competitive lease sales are planned for WEAs off the coasts of Maryland, New Jersey, and Massachusetts during fiscal year 2014. BOEM is also working to facilitate renewable energy development in areas along the Atlantic coast, the Pacific coast, and Hawaii.

In addition to issuing leases, BOEM also has the authority to issue ROW grants that allow developers to build electricity transmission lines. BOEM received a ROW request for a proposed transmission line running from Virginia to New York on the Atlantic OCS and has issued a public notice to determine whether competitive interest exists in moving forward with this project.

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## Findings

We found three areas in our review of the Program in which DOI can improve oversight. We found that the offshore renewable energy regulations were written when little was known about offshore renewable energy, which led to gaps and inconsistencies in the regulations. The Program also operates without written standard operating procedures (SOPs). We also found that the Program could better avoid conflict between its energy development and regulatory enforcement roles by transferring the inspection and enforcement activities to BSEE while retaining leasing responsibilities in BOEM.

## Regulations

During our review, employees expressed concerns about the completeness of current regulations. For instance, the regulations do not address ROW route changes. If an applicant is awarded a ROW lease based on a determination of no competitive interest—meaning no other companies applied for the ROW lease—and the applicant decides to change the route of the ROW, the regulation does not address if a new determination of competitive interest is needed. In addition, BOEM staff raised concerns that the broad requirements for determining if a lease applicant is technically and financially capable of building and funding an offshore renewable energy project could later expose BOEM to litigation. For example, if BOEM qualified a bidder that was not truly technically and financially capable of sustaining a project, other interested parties could take legal action against BOEM.

We also identified inconsistencies within Federal regulations, which cause confusion over whether BOEM or ONRR is the appropriate entity to which payments should be submitted:

- 30 C.F.R. § 585.506 states: “If you are generating electricity, you must pay ONRR, under the regulations at 30 C.F.R. part 1218, operating fees on your commercial lease when you begin commercial generation, as described in § 585.503;” but
- 30 C.F.R. § 585.506(d) states: “You must submit all operating fee payments to BOEM in accordance with the provisions under 30 C.F.R. 1218.51.”

In response to our Notice of Potential Findings and Recommendations (NPFR) and our draft report, BOEM clarified some of these issues and agreed with our recommendation to update its regulations (see Appendix 2). The response indicated that BOEM will move forward with proposing appropriate regulatory revisions consistent with its regulatory priorities.

## Recommendation

We recommend that BOEM:

- I. Review existing regulations to identify gaps and inconsistencies, and make regulatory changes before issues arise.

## Standard Operating Procedures

BOEM does not have SOPs establishing the Program's internal processes, including—

- audit policies, such as verification of the operating fee components—specifically the capacity factor and power price—and review of payments for accuracy;
- inspection policies and checklists;
- auction policies;
- bonding policies establishing BOEM's determination of bond amounts once construction and operations plans are approved; or
- qualification policies establishing how to determine if a potential lessee is technically and financially capable of developing an offshore project.

We understand that SOPs are in development, but BOEM assumes a greater risk for problems to occur if it continues to operate this program without established instructions and guidelines.

In addition, we found that ONRR does not have written policies or procedures establishing its processes for receiving and reviewing rental payments and operating fees. Written policies and procedures ensure that proper internal controls are in place and that subjective decisions are not made on an ad hoc basis.

In response to our NPFR and draft report, BOEM and ONRR responded that they concurred with our findings and recommendations on these issues (see Appendices 2 and 3). BOEM said it is developing a schedule for creating, distributing, reviewing, and updating SOPs by fiscal year 2014. ONRR said it will refine the established processes and document detailed procedures for renewable energy projects that will cover coordination with BOEM and the receipt and review of rental payments and operating fees by the second quarter of fiscal year 2014.

## Recommendations

We recommend that BOEM:

2. Develop and implement detailed SOPs for the Program's internal processes in order to facilitate good management practices and strong internal controls.

We recommend that ONRR:

3. Develop and implement detailed policies and procedures for its processes and responsibilities related to offshore renewable energy projects, including its coordination with BOEM and the receipt and review of rental payments and operating fees.

## Inspection and Enforcement

Regulations at 30 C.F.R. § 585.102(a)(12), as well as Secretarial Order 3299 (as amended), state that BOEM is responsible for the inspection and enforcement of offshore renewable energy facilities. We received conflicting information, however, regarding which departmental entity will perform the inspection and enforcement activities when projects are under construction and when they become operational.

Secretarial Order 3299 directed the establishment of BOEM and BSEE as separate entities. As then Secretary of the Interior Ken Salazar later testified, BOEM was charged with responsibility to “ensure the environmentally responsible and appropriate development of the Outer Continental Shelf for both conventional and renewable energy in a predictable and effective manner.” He continued that BSEE works to “ensure that all production operations are safe and that potential negative impacts on marine ecosystems and coastal communities are appropriately considered in each phase of development and mitigated to the fullest possible extent through its **independent regulation, oversight, and enforcement powers** [emphasis added].”<sup>1</sup>

The Order was amended in 2011 to postpone the transfer of inspection and enforcement functions to BSEE for the renewable energy program “until such time that the Assistant Secretary – Land and Minerals Management determines that an increase in activity justifies” the realignment. No criteria were given for this determination to be made.

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<sup>1</sup> Statement of Ken Salazar, Secretary of the Interior, Before the Committee on Energy and Natural Resources United States Senate on Recent Departmental Actions To Improve Safety and Accountability on the Outer Continental Shelf, dated June 9, 2010.

In response to our NPFR and draft report recommending that BOEM transfer the inspection and enforcement function to BSEE, BOEM stated that a consultant had reviewed BOEM's renewable energy program and recommended that permitting and inspection and enforcement activities initially reside as a function within BOEM (see Appendix 2). The consulting firm reasoned that in the near term, keeping the tasks of reviewing project plans and planning for the permitting and inspection functions within BOEM would allow for efficient and effective decisionmaking in the early policy stages. The contractor concluded that the permitting and inspection and enforcement engineers could be transferred to BSEE once BOEM has two or three projects near construction stage, likely after 2020.

BOEM anticipates that construction on Cape Wind will start in 2014. We believe that allowing the bureau responsible for planning and leasing renewable energy projects to also formulate the policies for the inspection and enforcement is contrary to the independent oversight and separation of duties envisioned in Secretarial Order 3299 as originally issued. We also believe that it would be more efficient and effective to have BSEE—which will ultimately be implementing the inspection and enforcement function—develop the policies and procedures as opposed to BOEM.

Developing this function in BSEE will allow BSEE to refine and finalize its process once the first project comes online and before multiple other projects near the start of construction, better preparing BSEE to efficiently perform its inspection and enforcement duties.

#### **Recommendation**

We recommend that the Assistant Secretary for Policy, Management and Budget:

4. Direct BOEM and BSEE to collaborate on developing the inspection and enforcement function within BSEE to ensure an appropriate separation of duties.

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# Conclusion and Recommendations

## Conclusion

With the advancement of offshore wind leasing and the anticipated construction of the first full offshore wind project in 2014, DOI should strengthen its management of all phases of renewable energy development. DOI has an opportunity to strengthen and improve its Offshore Renewable Energy Program by finalizing regulations, completing and documenting internal procedures, and transferring the responsibility for inspection and enforcement activities to BSEE.

## Recommendations Summary

We recommend that BOEM:

1. Review existing regulations to identify gaps and inconsistencies, and make regulatory changes before issues arise.

**BOEM Response:** BOEM concurred with this recommendation and stated that it will continue to move forward with proposing appropriate regulatory revisions consistent with the Bureau's regulatory priorities and experience with the renewable energy development under the existing regulations. BOEM said it is in the process of developing a list of potential regulatory changes and anticipates that updating the regulations will be a multiyear effort. BOEM also said it will develop a 3-year offshore renewable energy regulatory schedule and promulgate regulations.

**OIG Reply:** We consider this recommendation resolved but not implemented. We will refer the recommendation to the Assistant Secretary for Policy, Management and Budget for implementation tracking.

2. Develop and implement detailed SOPs for the Program's internal processes in order to facilitate good management practices and strong internal controls.

**BOEM Response:** BOEM concurred with this recommendation and agreed that detailed SOPs covering BOEM's internal processes are important to the development of the offshore renewable energy program. BOEM stated that it is taking a strategic and practical approach to evaluating and updating its current SOPs and creating and implementing new ones. The Bureau also said it is developing a schedule for creating, distributing, reviewing, and updating SOPs.

**OIG Reply:** We consider this recommendation resolved but not implemented. We will refer the recommendation to the Assistant Secretary for Policy, Management and Budget for implementation tracking.

We recommend that ONRR:

3. Develop and implement detailed policies and procedures for its processes and responsibilities related to offshore renewable energy projects, including its coordination with BOEM and the receipt and review of rental payments and operating fees.

**ONRR Response:** ONRR concurred with this recommendation, stating that ONRR, BOEM, and BSEE are finalizing a memorandum of understanding that will identify the responsibilities of each organization. ONRR stated that ONRR and BOEM will collaborate to define processes and communications as the Program evolves. ONRR also stated that it will refine the established processes and document detailed procedures that will cover coordination with BOEM and the receipt and review of rental payments and operating fees for renewable energy projects.

**OIG Reply:** We consider this recommendation resolved but not implemented. We will refer the recommendation to the Assistant Secretary for Policy, Management and Budget for implementation tracking.

We recommend that the Assistant Secretary for Policy, Management and Budget:

4. Direct BOEM and BSEE to collaborate on developing the inspection and enforcement function within BSEE to ensure an appropriate separation of duties.

**Acting Assistant Secretary for Land and Minerals Management Response:** The Acting Assistant Secretary partially concurred with the initial recommendation in our draft report to “expedite the transfer of the inspection and enforcement responsibilities for offshore renewable energy from BOEM to BSEE to ensure an appropriate separation of duties in the development of inspection protocols and plans for monitoring industry activities and regulatory compliance,” reasoning that DOI decided to initially house all of the offshore renewable energy functions within BOEM to allow the early stages of the Program to grow in a coherent, efficient, and comprehensive manner. The Acting Assistant Secretary stated that the Office of Renewable Energy Programs in BOEM was designed to formulate national strategy and develop policies and practices, as well as manage offshore renewable energy activities. The Acting Assistant Secretary said this role would enhance DOI’s ability to facilitate efficient and environmentally sound renewable energy development, would best advance DOI’s mission and strategic goals, and would be responsive to the realities of an emerging industry and regulatory regime. According to the Acting Assistant Secretary, the anticipated appropriate time to transfer inspections responsibilities from BOEM to BSEE will likely occur sooner than 2020, but the Acting Assistant Secretary believes

that the transfer should be properly planned and budgeted for in the context of the pace of development and that transferring these responsibilities prematurely would be inefficient and ineffective.

**OIG Reply:** We consider this recommendation unresolved. We believe that allowing the bureau that leases WEAs to also formulate policies for permitting, inspection, and enforcement eliminates independent oversight and separation of duties. We also believe the bureau responsible for permitting, inspection, and enforcement should formulate the policies and procedures that it will be responsible for implementing and enforcing. The expeditious transfer of these functions to BSEE should enhance DOI's abilities to ensure that the renewable energy program has sufficient focus and resources to properly plan and budget for offshore renewable energy facility development.

We modified this recommendation to direct BOEM and BSEE to collaborate on developing the inspection and enforcement function within BSEE to ensure an appropriate separation of duties. We also revised the recommendation by directing it instead to the Assistant Secretary for Policy, Management and Budget to avoid the appearance of a potential conflict of interest, since the Acting Assistant Secretary for Land and Minerals Management is also the BOEM Director.

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# Appendix I: Scope and Methodology

## Scope

We focused on the U.S. Department of Interior’s Offshore Renewable Energy Program (Program), including its—

- regulations, policy, and guidance;
- requests for interest, auction documents, and other project related information;
- planning and funding for the leasing process, environmental reviews, rights-of-way issuance, and inspection and enforcement;
- coordination of renewable energy projects with other agencies or task forces; and
- processes for establishing fees.

We conducted this evaluation in accordance with the Quality Standards for Inspection and Evaluation as put forth by the Council of Inspectors General on Integrity and Efficiency. We believe that the work we performed provides a reasonable basis for our conclusions and recommendations.

## Methodology

During our evaluation of the Program, we interviewed 38 employees from 8 different offices in the Bureau of Ocean Energy Management (BOEM), the Office of Natural Resources Revenue (ONRR), and the Bureau of Safety and Environmental Enforcement (BSEE). We also reviewed regulations, guidelines, and other information regarding the Program.

We interviewed employees from the following offices:

- BOEM Office of Renewable Energy Programs (OREP), Program Office, Herndon, VA;
- OREP Environmental Branch, Herndon, VA;
- OREP Projects and Coordination Branch, Herndon, VA;
- BOEM Economics Division, Herndon, VA;
- BSEE, Herndon, VA;
- ONRR, Washington, DC;
- ONRR, Lakewood, CO; and
- BOEM Pacific Coast Region, Camarillo, CA.

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## **Appendix 2: The Bureau of Ocean Energy Management's and the Acting Assistant Secretary for Land and Minerals Management's Response**

The Bureau of Ocean Energy Management's and the Acting Assistant Secretary for Land and Minerals Management's response follows on page 15.



# United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT

WASHINGTON, DC 20240-0001

**AUG 27 2013**

## Memorandum

To: Assistant Inspector General for Audits, Inspections, and Evaluations

From: Tommy P. Beaudreau   
Acting Assistant Secretary – Land and Minerals Management  
Director – Bureau of Ocean Energy Management

Subject: Response to Draft Evaluation Report on Offshore Renewable Energy Program  
(CR-EV-BOEM-0001-2012)

Thank you for the opportunity to review your Draft Evaluation Report entitled, *U.S. Department of the Interior's Offshore Renewable Energy Program* (CR-EV-BOEM-0001-2012). This response will address the recommendations directed to the Bureau of Ocean Energy Management (BOEM) and the Assistant Secretary – Land and Minerals Management. The Office of Natural Resources Revenue (ONRR) will respond separately to Recommendation 3, which is directed to ONRR. We concur with Recommendations 1 and 2 and partially concur with Recommendation 4.

As a part of the President's "All of the Above" energy strategy and call for action to address climate change, we are working to implement the Department's "Smart from the Start" initiative to facilitate offshore wind energy development and the priority goal for promoting renewable energy. As the Office of the Inspector General (OIG) noted, BOEM issued the first commercial lease for wind energy to the Cape Wind Project in 2010, construction related to which is expected to begin in 2014. In November 2012, BOEM issued a commercial lease for wind energy off the coast of Delaware to Bluewater Wind Delaware, LLC. In July 2013, BOEM held the first competitive auction for wind energy offshore Rhode Island and Massachusetts. BOEM will hold another competitive lease sale in September 2013 for offshore Virginia. Future competitive lease sales are planned for wind energy areas off the coasts of Maryland, New Jersey, and Massachusetts during the coming year. In addition, BOEM is working to facilitate

renewable energy development in other areas along the Atlantic and off the Pacific coast and Hawaii, and has established task forces in 12 states to identify areas suitable for offshore wind and marine hydrokinetic energy development.

Attached is our response to Recommendations 1, 2, and 4, identifying the actions taken or planned, target dates, and the official responsible for each recommendation.

Attachment

**Recommendation No. 1:** *Review existing regulations to identify gaps and inconsistencies, and make regulatory changes before issues arise.*

**Response: Concur**

BOEM agrees with this recommendation and will continue to move forward with proposing appropriate regulatory revisions consistent with the Bureau's regulatory priorities and experience with the renewable energy development under the existing regulations. BOEM developed the regulations at 30 CFR Part 585 with the goal of providing sufficient flexibility for a nascent U.S. offshore renewable energy industry, so some degree of regulatory "gaps" and "inconsistencies" in the original regulations has always been expected. Additionally, the number of European commercial-scale offshore wind projects commissioned at the time that the regulations were being developed was relatively small, thus the experience that BOEM could draw from in writing the regulations was limited.

BOEM is in the process of finalizing its first significant renewable energy regulatory change since promulgating the 30 CFR 585 regulations in April 2009. The rulemaking, entitled "Timing Requirements for the Submission of a Site Assessment Plan (SAP) or General Activities Plan (GAP) for a Renewable Energy Project on the Outer Continental Shelf (OCS)," changes the timing requirements for the submission of certain plans that BOEM has found to be unreasonable based on experience. The rulemaking also alters timing requirements for payments to align with the system needs of DOI's Office of Natural Resources Revenue, and fixes a technical error.

Now that BOEM has completed its first commercial wind lease sale and is on the cusp of holding its second, BOEM is reflecting on the successes and challenges of its regulatory planning and leasing process, and developing a list of substantive and procedural regulatory amendments to this process. In addition, BOEM is using the experience gained through the agency's oversight of the proposed Cape Wind project offshore Massachusetts to identify and predict regulatory issues with regard to plan approval, post-plan compliance, and engineering report review provisions. The effort to identify such issues to improve BOEM's renewable energy program and regulatory process will continue as more lease sales are held and more offshore wind lessees are required to comply with these provisions.

BOEM is in the process of developing a list of potential regulatory changes and anticipates that updating the regulations will be a multi-year, rolling effort. These regulatory developments will be in response to not only the OIG's observations and recommendations, but also based on the agency's experience with the offshore renewable energy program and input from external entities, including the states, the renewable energy industry, the Transportation Research Board of the National Academies, non-governmental organizations and other stakeholders.

Action: BOEM will develop a three-year offshore renewable energy regulatory schedule and develop and promulgate regulations.

Responsible Officials:

Deanna Meyer-Pietruszka, Chief, Office of Policy, Regulations, and Analysis  
Maureen Bornholdt, Chief, Office of Renewable Energy Programs

Target Date: FY 2016

**Recommendation 2:** *Develop and implement detailed SOPs for the Program's internal processes in order to facilitate good management practices and strong internal controls.*

**Response: Concur**

We agree that detailed Standard Operating Procedures (SOPs) covering BOEM's internal processes are important to the development of the offshore renewable energy program. BOEM is taking a strategic and practical approach to evaluating and updating its current SOPs and creating and implementing new ones.

As noted in the draft report, BOEM has made progress developing SOPs for the renewable energy program. We believe it is most practical and beneficial for BOEM to continue to prioritize the development of new procedures and revise existing ones most relevant to the current issues BOEM faces, adding new SOPs as the offshore renewable energy program continues to evolve and the agency gains experience with processes and procedures for which there has not yet been a need. Therefore, we agree with the draft report regarding the policies it notes as requiring SOPs, including auction policies, bonding policies, and qualifications policies. Additionally, BOEM would add renewable energy adjudication processes, task force formation and management, area identification, and non-competitive lease issuance to the list of priorities for SOP development. Accordingly, BOEM is developing a schedule for creating, distributing, reviewing, and updating SOPs.

At the current time, no offshore renewable energy generating facilities have been built pursuant to BOEM-issued renewable energy leases; no operating fees have been received; and no major structures have required inspection. However, in anticipation of expected progress in offshore renewable energy development, BOEM is planning for these future activities so that it will be prepared to execute them at the appropriate time and will accordingly develop detailed SOPs tailored to the specifics of the work they will address. More specific SOPs will be developed as the details of actual facilities become apparent.

To the extent appropriate, BOEM will draw from SOPs currently in use in its oil and gas programs that are transferable to the offshore renewable energy program. For example, the Office of Renewable Energy Programs refers to bonding and financial assurance procedures and policies established for the oil and gas program as appropriate. Additionally, BOEM has both internal and external sources of National Environmental Policy Act (NEPA) guidance that it adopts and relies on. Internal sources include standard operating procedures and internal guidance to comply with the requirements of NEPA and other environmental laws, regulations, and executive orders while the Bureau fulfill its mission of energy development on the OCS. The renewable energy program participates in the development, review, and revision of

BOEM's environmental guidance through its membership on BOEM's NEPA Team. More information about BOEM's environmental assessment program can be found at: <http://www.boem.gov/Environmental-Stewardship/Environmental-Assessment/NEPA/Index.aspx>. External sources include DOI procedures, which are applicable to all bureaus, including BOEM's offshore renewable energy program, such as the DOI Departmental Manual Part 516 and the DOI Office of Environmental Policy and Compliance Environmental Series Memoranda (see <http://www.doi.gov/pmb/oepec/environmental-memoranda-series.cfm>).

Action: Develop SOP Schedule

Responsible Official: Maureen Bornholdt, Chief, Office of Renewable Energy Programs

Target Date: FY 2014

**Recommendation 4:** *Expedite the transfer of the inspection and enforcement responsibilities for offshore renewable energy from BOEM to BSEE to ensure an appropriate separation of duties in the development of inspection protocols and plans for monitoring industry activities and regulatory compliance.*

**Response: Partially Concur**

The OIG report describes the intended division of bureau responsibilities following the October 2011 reorganization that resulted in the formation of two distinct bureaus, BOEM and the Bureau of Safety and Environmental Enforcement (BSEE). The report also notes that although BOEM currently is responsible for the inspection and enforcement of offshore renewable energy facilities, such duties would be transferred to BSEE at a future time.

The OIG recommends that Assistant Secretary-Land and Minerals Management (ASLM) “expedite” the transfer of responsibilities. ASLM expects that the offshore wind industry will progress sufficiently so that the transfer would occur earlier than the 2020 projection of the reorganization study. However, ASLM believes that the transfer should be properly planned and budgeted for in the context of the pace of offshore renewable energy facility development and that transferring these responsibilities prematurely would be inefficient and ineffective. For this reason, ASLM partially concurs with Recommendation 4.

The Department decided to initially house all of the offshore renewable energy functions within BOEM to allow the early stages of this program to grow in a coherent, efficient and comprehensive manner. The Office of Renewable Energy Programs (OREP) in BOEM was designed to be responsible for formulating national strategy and developing policies and practices, as well as managing offshore renewable energy activities. This role would enhance the Department's ability to facilitate efficient and environmentally sound renewable energy development, best advance the Department's mission and strategic goals, and be responsive to the realities of an emerging industry and regulatory regime. This decision was made to ensure that sufficient focus and resources be given to the fledgling offshore renewable energy program.

## *The McKinsey Report and the Reorganization*

From the time that the plan for Bureau of Ocean Energy Management, Regulation, and Enforcement's (BOEMRE) division into BOEM and BSEE was first released, this blueprint has always included a transfer of renewable energy inspection and enforcement duties after a "critical mass" of projects had been developed. The foundational policy was that the inspection and enforcement program would be created in BOEM, and at such a time as the workload warranted, the responsibilities would be transferred to BSEE. This strategy was based on (1) recognition that the offshore renewable energy industry is nascent and will develop gradually over time; (2) recognition that, similarly, DOI's regulatory regime related to offshore renewable energy will develop in parallel as areas are leased, surveys environmental reviews are conducted, and projects are designed; and (3) concern that limited budgetary and staffing resources be devoted in an efficient and useful manner.

To help with the issues surrounding the reorganization of MMS, the Department engaged McKinsey and Company, a respected management consultant. After examining the question of when to transfer renewable energy permitting and inspection activities to BSEE, McKinsey recommended:

Engineers and BSEE functions should be kept in BOEM while SOPs are created and the industry "standardizes"

- Keeping these functions within BOEM will allow for efficient and effective decision-making at this early policy stage ...
- Once several projects have gone through the end-to-end (application to lease to construction) process, the permitting and inspections functions should move to BSEE

For example, a challenge that the renewable energy inspection and enforcement program will face, whether developed in BOEM or BSEE, is the fact that there are few, if any, engineers with offshore renewable energy experience available in the United States. Therefore, DOI is taking a strategic approach to hiring and developing these personnel. As BOEM hires engineers to work in the renewable energy program, they join a staff of renewable energy specialists and start work reviewing plans, proposing improvements to regulations, contributing to the development of standards, etc. BOEM is an immersive environment where engineers can start learning about the structures and ocean conditions relevant to where renewable energy will be developed. Once there are sufficient projects under development to support a stand-alone office within BSEE, these engineers will be experienced with the entire offshore renewable energy program and familiar with the design and construction of the facilities being built offshore. At that time, it will be appropriate to transfer the functions and associated staff to BSEE.

While McKinsey predicted there would not be a sufficient number of projects before 2020, ASLM anticipates that the appropriate time to transfer inspections responsibilities from BOEM to BSEE likely will occur sooner than that. However, the precise date for the transfer cannot be

established at this time, as it will depend on how quickly companies assess their new leases and start to develop plans for construction and operation of projects.

#### *Coordination with BSEE before a Transfer*

Currently, OREP has civil and structural Engineers who, among other things, review lessees' renewable energy applications and plans for compliance with the regulatory requirements at 30 CFR 585; provide oversight for engineering, safety, and inspection elements of the interim policy, research and commercial leases; evaluate renewable energy standards and develop appropriate regulations; serve as technical experts for BOEM-sponsored research covering offshore renewable energy technology; and, coordinate with industry, lessees, standard-setting organizations, BSEE, and other relevant Federal agencies. OREP will be hiring additional staff to augment existing engineering and scientific expertise to accomplish these tasks. OREP engages its BSEE partners on offshore renewable energy work associated with engineering requirements; decommissioning and bonding issues; review of Facility Design and Fabrication and Installations Reports; and development of safety management systems, inspection, and audit processes. This partnership with BSEE is intended to ensure consistent and transparent knowledge development and transfer, with the goal of facilitating smooth program transition when these functions, employees and associated resources are transferred to BSEE.

Until it is appropriate to complete the transfer, BOEM will continue to work with BSEE to ensure that BSEE is well-informed regarding the program's activities. BOEM's current coordination activities are substantial. BSEE is a member of BOEM's intergovernmental task forces, which will ensure that BSEE has an opportunity to stay current on BOEM's area identification and leasing activities in each state. BOEM funds studies in BSEE's Emerging Technologies program, formerly the Technology Assessment and Research Program (for example see the following list of renewable energy studies: <http://www.bsee.gov/Research-and-Training/Renewable-Energy-Research> (REnR).aspx). BSEE has participated in the development of BOEM's guidance, including, *Guidelines for Providing Geological and Geophysical, Hazards, and Archaeological Information Pursuant to 30 CFR Part 585*. BSEE is expected to participate regularly as a cooperating agency in the preparation of assessments and studies under NEPA. BOEM has also consulted with BSEE on the hiring of engineers for the program.

To formalize this coordination, a planned Memorandum of Understanding (MOU) among BOEM, BSEE and ONNR will include a section specific to renewable energy. The provisions of this MOU will be designed to ensure BSEE will be well prepared for the transition of permitting and inspection functions from BOEM to BSEE.

Action: Complete MOU among BOEM, BSEE and ONNR

Responsible Officials:

BOEM: Walter D. Cruickshank, Deputy Director

BSEE: Margaret Schneider, Deputy Director

Target Date: FY 2014, Q2 (March 31, 2014)

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## **Appendix 3: The Office of Natural Resources Revenue's Response**

The Office of Natural Resources Revenue's response follows on page 23.



# United States Department of the Interior

OFFICE OF NATURAL RESOURCES REVENUE

Washington, DC 20240

AUG 16 2013

Memorandum

To: Assistant Inspector General for Audits, Inspections, and Evaluations

From: Gregory J. Gould  
Director

Subject: Response to Draft Evaluation Report on Offshore Renewable Energy Program  
(CR-EV-BOEM-0001-2012)

Thank you for the opportunity to review your Draft Evaluation Report entitled, *U.S. Department of the Interior's Offshore Renewable Energy Program* (CR-EV-BOEM-0001-2012). This response addresses Recommendation 3, which is directed to the Office of Natural Resources Revenue (ONRR). The Bureau of Ocean Energy Management (BOEM) and the Assistant Secretary – Land and Minerals Management will respond in a separate memo to recommendations directed to those organizations.

We concur with Recommendation 3 and ONRR has already initiated corrective actions to address the recommendation. Attached is our response to Recommendation 3 identifying the actions taken or planned, target dates, and the official responsible the recommendation. If you have any questions about this response, please contact Gwenna Zacchini, ONRR Audit Liaison Officer at (303) 231-3513.

Attachment

Response to Recommendation 3 for the Office of Natural Resources Revenue (ONRR) in the Department of the Interior (DOI) Office of Inspector General draft report entitled, *U.S. Department of the Interior's Offshore Renewable Energy Program* (CR-EV-BOEM, 0001-2012)

**Recommendation 3:** *Develop and implement detailed policies and procedures for its processes and responsibilities related to offshore renewable energy projects, including its coordination with BOEM and the receipt and review of rental payments and operating fees.*

Response: Concur.

ONRR, BOEM and BSEE are finalizing a Renewable Energy Division of Responsibilities (DOR) attachment to the ONRR, BOEM, and BSEE Memorandum of Understanding. This is a high-level document that will identify responsibilities of each organization. The Solicitor's Office reviewed the document and BOEM, BSEE and ONRR Deputy Directors will sign the document when finalized.

ONRR and BOEM continually collaborate to define processes and necessary communications as the Renewable Energy Program evolves. ONRR will refine the established processes and document detailed procedures for Renewable Energy projects, which will cover coordination with BOEM and the receipt and review of rental payments and operating fees.

Responsible Official: Gregory J. Gould, Director, ONRR

Target Date: Second Quarter FY 2014

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## Appendix 4: Status of Recommendations

In the Bureau of Ocean Energy Management’s (BOEM) and the Acting Assistant Secretary for Land and Minerals Management’s response, BOEM concurred with recommendations 1 and 2 and the Acting Assistant Secretary partially concurred with recommendation 4 (see Appendix 2). We modified recommendation 4 and request that the Assistant Secretary for Policy, Management and Budget respond to our revised recommendation. In its response, the Office of Natural Resources Revenue concurred with recommendation 3 (see Appendix 3).

Recommendations	Status	Action Required
1, 2, 3	Resolved but not implemented	We will refer these recommendations to the Assistant Secretary for Policy, Management and Budget for implementation tracking.
4	Unresolved	We modified our recommendation and request that the Assistant Secretary for Policy, Management and Budget respond to our revised recommendation.

