

FACT SHEET



Arctic Rule Proposed Revisions

In 2017, Executive and Secretarial Orders directed BSEE and BOEM to review all existing regulations, including the Arctic Drilling Rule, and other agency actions with a goal toward “avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.” It instructs agencies to “review existing regulations that potentially burden the development or use of domestically produced energy resources and appropriately suspend, revise, or rescind those that unduly burden the development of domestic energy resources beyond the degree necessary to protect the public interest or otherwise comply with the law.”

After thoroughly reviewing the 2016 Arctic Drilling Rule, BSEE and BOEM identified provisions that if revised will reduce unnecessary regulatory burdens on stakeholders, while ensuring that any operations remain safe and environmentally responsible.

This proposed rule is designed to reflect the need to ensure the safe, effective, and responsible exploration of Arctic Outer Continental Shelf (OCS) oil and gas resources, while protecting the marine, coastal, and human environments, and preserving Alaska Natives’ cultural traditions and their access to subsistence resources. This proposed rule is intended to revise the regulations promulgated through the 2016 Arctic Drilling Rule by creating more flexible and less costly compliance options in BSEE and BOEM regulations that could achieve these objectives.

Changes based on what new information?

Research leads to proposed changes in revised Arctic Rule.

- A BSEE-commissioned Technology Assessment Program study titled, “***Suitability of Source Control and Containment Equipment versus Same Season Relief Well in the Alaska Outer Continental Shelf Region***” (Bratslavsky and SolstenXP, 2018).
 - Historical statistical analysis of Alaska Arctic OCS drilling seasons between 2012 and 2016, in which meteorology and physical oceanographic (metocean), and operational conditions would support the safe deployment of Source Control Containment Equipment (SCCE), the drilling of a relief well, or both.
 - A comprehensive review and gap analysis of U.S. and international regulations, standards, recommended practices, specifications, technical reports, and common industry methods regarding the safe deployment of SCCE as compared to the effectiveness of drilling a relief well in Arctic conditions.
- A National Petroleum Council (NPC) report titled, “***Supplemental Assessment to the 2015 Report on Arctic Potential: Realizing the Promise of U.S. Arctic Oil and Gas Resources*** (NPC 2019 Report).”
 - Prepared in response to an April 2018 request from the Secretary of Energy.
 - Provides recommendations for enhancing the Nation’s regulatory environment by improving reliability, safety, efficiency, and environmental stewardship of oil and gas activities on the Arctic OCS.

- An additional item relevant to exploration in the Arctic as part of this rulemaking that was outside the scope of the 2016 Arctic Exploratory Drilling Rule included:
 - Seasonal weather-related constraints
 - Seasonal weather in the Arctic that severely impact an operator's ability to safely perform leaseholding operations for a significant portion of the term on their lease.
- BSEE and BOEM carefully analyzed all the provisions promulgated through the 2016 Arctic Rule and determined that the proposed rule leaves 44 out of 65 provisions from the original Arctic Rule – approximately 67 percent – unchanged. Twenty-one provisions were identified as appropriate for revision, and 13 provisions were added to maintain safety and environmental protection on the OCS.

Alaska Native Consultations

Meaningful and timely input assist proposed revisions.

- In advance of revising this proposed rule, BSEE and BOEM reached out to Alaska Native Tribal leaders, Alaska Native Claims Settlement Act (ANCSA) corporations, and native village leaders in Northern Alaska for Government-to-Government consultations and municipal meetings.
- Between Nov. 29, 2018 and Jan. 30, 2019, BSEE and BOEM officials met with 23 tribal, ANCSA corporations, and municipal leaders at villages throughout Northern Alaska (Kotzebue, Point Hope, Utqiagvik, Nuiqsut, and Kaktovik), Fairbanks and Anchorage. In addition, BSEE and BOEM held a consultation meeting via a conference call with tribal representatives from the Native Village of Point Lay.
- The following list identifies those entities BSEE and BOEM met with:
 - Tribal Government – Native Village of Utqiagvik, Native Village of Wainwright, Native Village of Kotzebue, Native Village of Point Hope, Native Village of Nuiqsut, Native Village of Kaktovik, Tanana Chiefs Conference, and Native Village of Point Lay.
 - Native Corporation – Olgoonik Native Corporation, Doyon Limited, Arctic Slope Regional Corporation, Tikigaaq Native Corporation, Cully Corporation, Kuukpiik Corporation, and Kaktovik Inupiat Corporation.
 - Municipal Governments – Northwest Arctic Borough, Point Hope, North Slope Borough, City of Utqiagvik, Nuiqsut, and Kaktovik.
 - Other Tribal Organizations – Inupiat Community of the Arctic Slope (ICAS) and the Alaska Eskimo Whaling Commission (AEWC).
- Following the Tribal meetings and consultations, BSEE reviewed the comments. Some of these comments directly affected the proposed revision, including:
 - Certain tribal representatives and most ANCSA corporations were supportive of this rulemaking. They explained the revisions could help attract more economic opportunities to their villages.
 - Recommendation that the revised Arctic Rule consider the NPC 2019 Report.

- Additional consultations are being proposed for winter 2020 to receive additional input on the proposed rule.
- BSEE and BOEM are fully aware that subsistence resources play a key role in offsetting the high costs of conventional food supplies and that subsistence hunting and fishing play a key role in the cultural identity of Alaska Natives.

Proposed Revisions to the Arctic Rule include:

- **Suspension of Operations (SOO)**
Add a new provision to BSEE regulations that provides operators that are conducting drilling operations but are prevented from completing those leaseholding operations due to seasonal constraints unique to the Arctic, with the opportunity to obtain a SOO. The unique seasonal conditions in the Arctic can make it difficult or physically impossible for operators to explore their leases for a significant portion of the term on their lease, which is currently 10 years for Alaska OCS leases. If granted, this type of SOO would suspend the running of the lease term and effectively extend the term of the affected lease by a period equivalent to the period of such suspension. The SOO would allow a diligent operator to use the full 10 years in a 10-year lease term to explore for hydrocarbons, without the concern for a lease expiring because Arctic seasonal constraints prevented operations.
- **Water-Based Mud and Cuttings**
Eliminate references to the BSEE Regional Supervisor's discretionary authority to require the capture of water-based muds and cuttings in those cases where subsistence values might be impacted by such discharges. While not intended, BSEE understands that this reference created some uncertainty for the regulated industry, because it appeared to overlap with regulation by the Environmental Protection Agency (EPA) and, if implemented, might result in BSEE issuing requirements that contradict the EPA's requirements.
- **Source Control Containment Equipment (SCCE)**
The Bratslavsky and SolstenXP study evaluated current industry methods and standards for deploying SCCE in Arctic OCS conditions, and determined that meteorological conditions (e.g., rough sea state and sea ice conditions) prevalent in the Chukchi and Beaufort Seas are key factors limiting the time periods when SCCE may be safely deployed throughout the Arctic OCS. It is not practical for BSEE's regulations to prescribe that certain SCCE (containment dome and cap and flow system, in particular) be positioned within proximity to a well location when the opportunities to safely deploy this equipment in the Arctic OCS are limited. However, BSEE would retain other existing containment dome and cap and flow system requirements, particularly as it pertains to ensuring there is access to the equipment even though it would not be positioned, the equipment meets BSEE's operating standards, tests are performed to confirm the equipment function properly, and that testing, inspection, maintenance, and utilization records are available upon BSEE request.

With respect to the capping stack, BSEE would preserve the requirement for the operator to position its capping stack so that it is available to arrive at the well location within 24 hours after a loss of well control. However, recognizing that there could be cases when operations could be safely performed up to a certain point below the surface casing, BSEE proposes to provide an opportunity to the operator to adjust the point in time during operations when it must position its capping stack.

If the operator is able to demonstrate to BSEE, based on documentation it submits that the operations it plans to conduct below the surface casing would not encounter any abnormally high pressured zones or other geological hazards before reaching the last casing point prior to penetrating a zone capable of flowing hydrocarbons in measurable quantities, then BSEE will allow the operator to delay its positioning of the capping stack until reaching that casing point.

- **Same Season Relief Well (SSRW) and Subsea Isolation Devices (SSID)**

Revise the relief rig and SSRW requirements by providing the operator with the option of using a SSID or having access to a relief rig, as an additional means to secure the well in the event of a loss of well control, if the operator will be conducting exploratory drilling operations from a MODU. In addition, BSEE proposes to provide an opportunity to the operator to adjust the point in time during operations when it must stage its relief rig (if the operator elects to have access to a relief rig) when conducting Arctic OCS exploratory drilling operations – from when drilling below or working below the “surface casing” to when drilling below or working below the “last casing point prior to penetrating a zone capable of flowing hydrocarbons in measurable quantities.”

If the operator is able to demonstrate to BSEE, based on documentation it submits, that the operations it plans to conduct below the surface casing would not encounter any abnormally high pressured zones or other geological hazards before reaching the last casing point prior to penetrating a zone capable of flowing hydrocarbons in measurable quantities, then BSEE will allow the operator to delay its staging of the relief rig until reaching that casing point.

In the relief rig and SSRW regulation, BSEE would also eliminate the reference to expected seasonal ice encroachment because the relevant timeframes for operations should be based on the capabilities of the operator’s rig and equipment to operate in the applicable ice conditions, rather than an absolute date.

- **Mudline Cellars**

Clarify the requirement for the operator, in areas of ice scour, to use a mudline cellar when drilling that is designed to minimize the risk of damage to the well head and wellbore. The existing regulation could be read to require the operator to use a mudline cellar in all cases, except when the operator can prove that the mudline cellar would present an operational risk, and that was not BSEE’s intent. This proposed change would make it clear that the operator has more flexibility to propose to employ alternate procedures or equipment instead of the mudline cellar under appropriate circumstances, as provided by the longstanding provisions of 30 CFR § 250.141; not just when a mudline cellar would present an operational risk and if the operator is able to demonstrate that the alternate procedure or equipment would provide a level of safety and environmental protection that equals or surpasses the mudline cellar requirement.

- **Integrated Operation Plan (IOP)**

Eliminate the requirement that the operator submit an IOP because it requires submission of information that overlaps with that required in the Exploration Plan and the IOP’s early information sharing is unnecessary in light of BOEM’s practice for reviewing and coordinating review of the Exploration Plan. Consequently, the operator is already aware that they must plan for how they will reduce operational risks and address the challenges associated with operations on the Arctic OCS through their Exploration Plan.