



United States Department of the Interior
BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT
WASHINGTON, DC 20240-0001

**SUBJECT TO FRE 408 PROTECTIONS UNTIL FILED WITH COURT AS ATTACHMENT TO
PLAINTIFFS' VOLUNTARY DISMISSAL WITH PREJUDICE**

Healthy Gulf
1010 Common Street, Ste 902
New Orleans, LA 70112

To Whom it May Concern:

The Bureau of Safety and Environmental Enforcement (BSEE) provides this letter in order to resolve the pending litigation *Healthy Gulf v. Bernhardt*, No. 1:19-cv-2894-EGS (D.D.C.) pursuant to the parties' correspondence dated April 21, 2021.

BSEE has regulatory authority to approve operator requests to use "alternate procedures or equipment" from those otherwise required by the regulations governing oil and gas operations on the outer continental shelf (OCS). 30 C.F.R. § 250.141. The only allowable "alternate procedures or equipment" are those that "provide a level of safety and environmental protection that equals or surpasses current BSEE requirements." *Id.* § 250.141(a). The applicant must obtain written approval from BSEE before alternate procedures or equipment can be used. *Id.* § 250.141(b).

BSEE also has authority to approve "departures to the operating requirements." *Id.* § 250.142. "Departures" are "approvals granted by the appropriate BSEE . . . representative for operating requirements/procedures other than those specified in the regulations" that "may be necessary to control a well; properly develop a lease; conserve natural resources, or protect life, property, or the marine, coastal, or human environment." *Id.* § 250.105. Applicants must request a departure in writing and obtain BSEE approval. *Id.* § 250.142.

BSEE is enforcing the provisions of the Well Control Rule, 81 Fed. Reg. 25,887 (Apr. 29, 2016), that remain in effect following the 2019 Revisions to the Well Control Rule, 84 Fed. Reg. 21,908 (May 15, 2019). If BSEE receives a request under 30 C.F.R. § 250.141 or § 250.142, BSEE adjudicates the request on a case-by-case basis based on the existing regulatory criteria and its experience evaluating similar requests. When BSEE approves a request under 30 C.F.R. § 250.141 or § 250.142, it publishes a description of the request on its website within fifteen business days pursuant to the Further Consolidated Appropriations Act, 2020, § 117, Pub. L. No. 116-94, 133 Stat 2,534, 2,714 (Dec. 20, 2019). BSEE has not adopted a "waiver rule" to systematically depart from the Well Control Rule's provisions for blowout preventer testing.

Sincerely,

Scott Mabry
BSEE Acting Director