



Testimony

Before the Subcommittee on the Interior,
Energy, and Environment, Committee on
Oversight and Government Reform,
House of Representatives

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OFFSHORE OIL AND GAS OVERSIGHT

Actions Needed to Address Leadership Commitment Deficiencies at Interior

Statement of Frank Rusco, Director,
Natural Resources and Environment

Chairman Farenthold, Ranking Member Plaskett, and Members of the Subcommittee:

I am pleased to be here today to discuss our report being issued today on offshore oil and gas oversight.¹ As you know, the 2010 *Deepwater Horizon* incident—which resulted in 11 deaths, serious injuries, and the largest marine oil spill in the history of the United States—raised questions about the Department of the Interior’s (Interior) oversight of offshore oil and gas activities in the Gulf of Mexico. In turn, on May 19, 2010, Interior reorganized the Minerals Management Service (MMS)—the agency responsible for managing oil and gas activities in federal waters—to improve the management, oversight, and accountability of activities on the Outer Continental Shelf.² As an interim step, Interior renamed MMS the Bureau of Ocean Energy, Management, Regulation and Enforcement (BOEMRE) and separated major functions of offshore oil and gas management by making BOEMRE responsible for offshore oil and gas management and the Office of Natural Resources Revenue responsible for revenue collections. On October 1, 2011, Interior completed the reorganization of MMS by splitting BOEMRE into the Bureau of Ocean Energy Management, which is responsible for leasing and resource management, and the Bureau of Safety and Environmental Enforcement (BSEE), which is responsible for reviewing drilling permits, inspecting offshore drilling rigs and production platforms, and developing regulations and standards for offshore drilling. BSEE’s mission is to promote safety, protect the environment, and conserve resources offshore through vigorous regulatory oversight and enforcement.

Since its inception in 2011, BSEE has undertaken several efforts to reform its oversight capabilities. In February 2016, we reported that BSEE’s ongoing organizational restructuring—which it initiated in October 2013 to develop national programs—had not addressed long-standing

¹GAO, *Oil and Gas Management: Stronger Leadership Commitment Needed at Interior to Improve Offshore Oversight and Internal Management*, GAO-17-293 (Washington, D.C.: Mar. 21, 2017).

²The Outer Continental Shelf refers to the submerged lands outside the territorial jurisdiction of all 50 states but within U.S. jurisdiction and control. The portion of the North American continental edge that is federally designated as the Outer Continental Shelf generally extends seaward 3 geographical miles off the coastline to at least 200 nautical miles. Secretarial Order No. 3299 (May 19, 2010).

deficiencies to its investigative, environmental compliance, and enforcement capabilities.³ Among other things, we found that:

- Regarding investigations, BSEE continued to rely on pre-*Deepwater Horizon* incident policies and guidance for managing its investigative capabilities and did not have the capability for analyzing data on incidents that occur on the Outer Continental Shelf.
- Regarding environmental compliance, BSEE reversed actions taken to address post-*Deepwater Horizon* incident concerns, weakening its oversight of operator compliance with environmental standards. Moreover, the bureau had made limited progress developing and updating guidance, which were among the goals of the restructuring. Additionally, BSEE's restructuring has not addressed staffing shortfalls that are preventing it from meeting its environmental oversight targets.
- Regarding enforcement, BSEE made limited progress addressing long-standing deficiencies in its effectiveness. Specifically, BSEE has not completed policies or developed procedures—including defined criteria for the use of its existing enforcement tools—to guide its enforcement actions.

To enhance BSEE's ability to effectively oversee offshore oil and gas development, we recommended in our February 2016 report that the Secretary of the Interior direct the Director of BSEE to take nine actions, including that BSEE complete policies outlining the responsibilities of its investigative, environmental compliance, and enforcement programs and update and develop procedures to guide them. Interior neither agreed nor disagreed with our recommendations. The findings of our February 2016 report served as the basis for the inclusion of the restructuring of offshore oil and gas oversight in our February 2017 expansion of our High-Risk List.⁴ Simultaneous to our assessment of BSEE's organizational restructuring, bureau leadership was developing its *Fiscal Year 2016–2019 Strategic Plan*, which identifies key initiatives to improve BSEE's safety and environmental oversight as well as its internal management.

³GAO, *Oil and Gas Management: Interior's Bureau of Safety and Environmental Enforcement Has Not Addressed Long-Standing Oversight Deficiencies*, GAO-16-245 (Washington, D.C.: Feb. 10, 2016).

⁴GAO, *High-Risk Series: Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others*, GAO-17-317 (Washington, D.C.: February 2017). In 1990, we began a program to report on government operations that we identified as "high risk."

In this context, my testimony today discusses the findings from our report being issued today on BSEE's leadership efforts in implementing key strategic initiatives to improve its (1) safety and environmental oversight and (2) internal management.

To conduct our work, we reviewed BSEE strategic planning and budget justification documentation as well as interviewed BSEE leadership to identify key bureau strategic initiatives. For each initiative, we collected and analyzed BSEE documentation of its purpose and history—including budget justifications, project plans, and contracts, among others—to determine its objectives, time frames, and status. We also interviewed BSEE officials at headquarters responsible for bureau and program leadership as well as officials in the regional and district offices responsible for implementing BSEE oversight activities. The report includes a detailed explanation of the scope and methodology we used to conduct our work.

We conducted the work on which this testimony is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

BSEE Leadership Has Started Several Initiatives to Improve the Bureau's Safety and Environmental Oversight Capabilities, but Its Actions Have Hindered Progress

We found that BSEE leadership has started several initiatives to improve its safety and environmental oversight capabilities, but its limited efforts to obtain and incorporate input from within the bureau have hindered its progress. Since 2012, BSEE has sought to augment its annual inspection program with a risk-based inspection program, but limited efforts to obtain and incorporate input from experienced regional personnel have hindered BSEE's ability to develop and implement the risk-based program. In 2012, BSEE began an initiative to develop an approach for conducting inspections of offshore facilities based on the level of risks they posed. However, to date, BSEE has not successfully implemented this supplemental risk-based inspection capability.

BSEE leadership led the development of the risk-based program; however, according to officials, leadership developed the program with little input from regional personnel. Officials in the Gulf of Mexico region with knowledge and experience conducting previous risk-based inspection efforts told us that they were not apprised of key program

products (e.g., a risk model developed by Argonne National Laboratory) until the products were well under development and that they were given little opportunity to provide comment on them.

As a result, BSEE first identified deficiencies with its risk-based program during pilot testing in 2015,⁵ rather than working closely with experienced regional personnel earlier in the process to obtain their input to identify potential deficiencies and remediate them during program development. In turn, BSEE leadership's limited efforts to obtain and incorporate input from regional staff and management during development of the program led to poor pilot results. In response, BSEE has changed the focus of the program and reduced expectations for its initial approach to risk-based inspections.

In 2016, BSEE conducted an environmental stewardship initiative comprised of two simultaneous environmental risk reduction efforts, but we found that these efforts were overlapping, fragmented, and uncoordinated, which reduced the effectiveness of the initiative and hindered the implementation of identified improvements. These efforts were led and coordinated by BSEE leadership in the Environmental Compliance Division at headquarters, which BSEE created in 2015 to establish national strategic goals and procedures for the bureau's environmental compliance activities. However, the efforts were overlapping because BSEE leadership tasked both with the same five objectives. The two efforts were also fragmented because BSEE leadership did not effectively coordinate their execution, which hindered information sharing between them that could have enhanced their value. Moreover, because the efforts were uncoordinated, they resulted in the inefficient use of resources.⁶

In our report being released today, we recommended that the Secretary of the Interior direct the Assistant Secretary for Land and Minerals Management, who oversees BSEE, to establish a mechanism for BSEE management to obtain and incorporate input from bureau personnel and

⁵Although the bureau initially intended to conduct pilots in fiscal year 2014, BSEE officials told us they instead spent September 2013 to February 2015 testing Argonne National Laboratory's model.

⁶Under the *Standards for Internal Control in the Federal Government*, management should internally and externally communicate the necessary quality information to achieve the entity's objectives. GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014).

any external parties, such as Argonne National Laboratory, that can affect the bureau's ability to achieve its objectives. In its written response to our report, Interior neither agreed nor disagreed with our recommendation. Interior stated that the recommendation reflects an ongoing BSEE commitment and that BSEE and Interior agree with the concept laid out therein. However, Interior's comments do not discuss any specific actions taken or under way to do so. Without higher-level oversight within Interior establishing a mechanism for BSEE management to obtain and incorporate input from personnel within the bureau and any external parties that can affect the bureau's ability to achieve its objectives, BSEE's risk-based inspection program and Environmental Stewardship efforts are likely to experience continued implementation and efficacy problems.

BSEE Leadership Has Made Limited Progress in Implementing Strategic Initiatives to Improve Its Internal Management

We found that since 2013, BSEE has begun four strategic initiatives to improve its internal management—two to improve its decision-making capabilities and two to enhance communication and transparency—but their successful implementation has been hindered by limited leadership commitment and not addressing factors contributing to trust concerns.

BSEE Leadership Did Not Fully Implement Initiatives to Improve Decision-Making Capabilities

In 2013, BSEE began an initiative to develop an Enterprise Risk Management (ERM) framework but has not fully implemented it as a management tool.⁷ BSEE has made some progress over the past 3 years in implementing an ERM framework but has not completed the actions necessary to fully implement it. In conjunction with a contracted ERM support consultant, BSEE developed an iterative ERM cycle that includes six steps.⁸ In 2014, BSEE identified and prioritized 12 strategic risks that

⁷The Office of Management and Budget (OMB) defines ERM as an effective agencywide approach to addressing the full spectrum of the organization's risks by understanding the combined impacts of risks as an interrelated portfolio, rather than addressing risks only within silos (i.e., viewing problems in isolation). OMB, Cir. No. A-11, at § 270.24. OMB issued new policy for implementation of ERM in July 2016. OMB Cir. No. A-123.

⁸Since 2013, BSEE has spent approximately \$1.5 million on contracted consultant support to develop and implement its ERM framework.

cover the lifecycle of BSEE operations. BSEE planned to verify the prioritization of its top several strategic risk treatments by July 2016 but did not do so. BSEE officials told us that the bureau halted ERM implementation while it acquired automated ERM software. The officials said BSEE planned to finalize a plan for its prioritized risk treatments by August 2016 but did not do so because of the temporary halt to ERM implementation. Likewise, they said BSEE intended to promulgate a monitoring plan by October 2016 but did not do so because of the aforementioned temporary halt to ERM implementation. However, in November 2016, BSEE determined that it would reinstitute ERM implementation simultaneous to the implementation of software.

In 2014, BSEE began an initiative to develop performance measures for its programs but has not implemented any measures. BSEE's October 2012 *Strategic Plan-Fiscal Years 2012-2015* stated that the bureau must develop performance measures to assess the results of its programmatic efforts as well as its ability to reduce the risks of environmental damage and accidents. BSEE's initiative to develop performance measures has been comprised of three sequential efforts, in 2014, 2015, and 2016. For the first two efforts, the bureau contracted with a consultant. BSEE terminated the first effort, and although the consultant delivered a report identifying 12 performance measures during the second effort, BSEE officials said they were not implementing them due to a variety of factors, including data availability limitations. For its third effort to develop performance measures in 2016, BSEE headquarters officials told us that this initiative, which is being conducted internally by BSEE personnel, represents the beginning of a multi-year effort to implement a performance management system. BSEE initially planned to finalize its internally developed list of performance measures in February 2016 but did not meet this deadline. In December 2016, BSEE completed a report that discusses 17 performance measures and the bureau's plans for future iterations of their development.

We have previously reported on BSEE's struggles to effectively implement internal management initiatives. Specifically, in February 2016, we found that since its inception in 2011, BSEE had made limited progress in enhancing the bureau's investigative, environmental compliance, and enforcement capabilities.⁹ Likewise, with regard to its ongoing strategic initiatives to improve its decision-making capabilities,

⁹ GAO-16-245.

more than 3 years have passed since BSEE initiated the development of its ERM framework, more than 2 years have passed since the bureau prioritized the strategic risks it faces, and more than 4 years have passed since it identified the development and implementation of performance measures as an organizational need. In that time, BSEE initiated several efforts to develop and implement such measures, and although BSEE has developed measures, it has yet to fully implement any.

One of our five criteria for assessing whether an area can be removed from our high-risk list is leadership commitment—that is, demonstrated strong commitment and top leadership support.¹⁰ An example of leadership commitment is continuing oversight and accountability, which BSEE leadership has not demonstrated for implementing internal management initiatives, as evidenced by its limited progress in implementing key strategic initiatives as well as its inability to address long-standing oversight deficiencies.

In our report being released today, we recommended that the Secretary of the Interior direct the Assistant Secretary for Land and Minerals Management, who oversees BSEE, to address leadership commitment deficiencies within BSEE, including by implementing internal management initiatives and ongoing strategic initiatives (e.g., ERM and performance measure initiatives) in a timely manner. Interior neither agreed nor disagreed with our recommendation. Interior stated that the recommendation reflects an ongoing BSEE commitment and that BSEE and Interior agree with the concept laid out therein. However, Interior's comments did not discuss specific actions taken or planned to meet the intent of our recommendation. Without higher-level oversight within Interior addressing BSEE's leadership commitment deficiencies—including by implementing internal management initiatives and ongoing strategic initiatives—in a timely manner, the bureau is unlikely to succeed in implementing such initiatives.

¹⁰The five criteria for removal are (1) leadership commitment, (2) agency capacity, (3) an action plan, (4) monitoring efforts, and (5) demonstrated progress. See GAO-15-290.

Initiatives to Enhance Communication and Transparency Have Not Addressed Factors Contributing to Long-Standing Trust Concerns between Headquarters and the Regions

In February 2016, BSEE announced an initiative to assess internal communications and develop an employee engagement strategy. BSEE employee engagement initiative documentation identifies the need to enhance communication vertically and horizontally across the bureau. BSEE leadership's safety and environmental stewardship initiatives have had limited success, largely due to poor communication and coordination between headquarters and the regions. BSEE officials from across the bureau told us that the poor communication between headquarters and the regions led to a deficit of trust vertically throughout the bureau. They also told us that because BSEE headquarters was newly established as part of the reorganization of MMS in 2010 following the *Deepwater Horizon* incident, not many existing relationships between headquarters and regional personnel existed.

The data collection plan for this employee engagement initiative focused on conducting outreach across the bureau to identify the means by which BSEE personnel prefer to receive information—for example, town hall meetings, BSEE's website, or e-mail. BSEE conducted this outreach but as of November 2016 had not developed an employee engagement strategy—although its original target completion date was April 2016—and it is unclear when it will do so. In September 2016, BSEE decided to conduct a second round of outreach across the organization by spring 2017 to review feedback from the initial outreach, discuss next steps, and provide guidance on existing communications resources.

To address trust concerns that exist between headquarters and the field, we recommended in our report being released today that the Secretary of the Interior direct the BSEE Director to expand the scope of its employee engagement strategy to incorporate the need to communicate quality information throughout the bureau consistent with federal standards for internal control.¹¹ Interior neither agreed nor disagreed with our recommendation. Interior asserted that, since receiving our draft report for review, BSEE has completed the assessment and analysis of employee feedback and developed an engagement plan, but Interior did not provide documentary evidence of this plan or what it entails. Without providing evidence of BSEE's activities, we could not confirm that any action had been taken and continue to believe that BSEE should expand the scope of its employee engagement strategy.

¹¹ GAO-14-704G.

In addition, the bureau's Integrity and Professional Responsibility Advisor (IPRA) is responsible for promptly and credibly responding to allegations or evidence of misconduct and unethical behavior by BSEE employees and coordinating its activities with other entities, such as Interior's Office of Inspector General (OIG).¹² Senior BSEE officials from across the bureau stated that the IPRA function is critical to bolstering trust within the bureau because personnel need to have a functioning mechanism to which they can report potential misconduct by other employees. To increase transparency and consistency in how IPRA cases are handled following the completion of an investigation report, BSEE conducted a pilot initiative in 2016 to assess the types of allegations of misconduct being reported to the IPRA as well as the frequency with which the IPRA referred such allegations to other entities. In August 2016, BSEE determined that the majority of incoming allegations were being directed to the appropriate office for action.

However, BSEE's pilot initiative did not address unclear and conflicting guidance that could undermine organizational trust in how the IPRA addresses allegations of misconduct. Specifically, we found that the Interior *Department Manual* and IPRA guidance do not specify criteria for the severity thresholds for allegations that are to be referred to the OIG. As a result, the boundaries of IPRA responsibility are unclear. Additionally, BSEE's pilot initiative did not address IPRA guidance that conflicts with the reporting chain established by the Interior *Department Manual* and BSEE's organization chart.

Some BSEE regional officials told us that the uncertainty about how the IPRA reports allegations to the OIG as well as its reporting structure led them to question the independence of IPRA activities, and they expressed concern that the IPRA could be used to retaliate against employees, which has undermined organizational trust in its activities. Under the federal standards of internal control, management should design control activities to achieve objectives and respond to risks, such

¹²As part of BSEE's restructuring of its investigative capabilities in 2015, the bureau established an IPRA within the Office of the Director to investigate allegations of serious misconduct involving any employee not accepted for investigation by the OIG. The IPRA function previously had been located in BSEE's Investigations and Review Unit, which was dissolved as part of BSEE's organizational restructuring in 2015 and split into two new programs: the Safety and Incident Investigation Division and the IPRA.

as by clearly documenting internal controls.¹³ While BSEE has documented its policies, they are not clear.

In our report being released today, we recommended that the Secretary of the Interior direct the BSEE Director to assess and amend IPRA guidance to clarify (1) severity threshold criteria for referring allegations of misconduct to the OIG and (2) its reporting chain. Interior neither agreed nor disagreed with our recommendation but stated that contrary to our draft report, the Interior *Department Manual* includes severity threshold criteria for referring allegations of misconduct to the OIG. We believe that the language in the Interior *Department Manual* does not provide the specificity needed to adequately define the boundaries of IPRA responsibility.

Additionally, Interior stated that the IPRA reports to the BSEE Director, consistent with the reporting chain established in the bureau's organizational chart and the Interior *Department Manual*. However, the BSEE Director told us that, in practice, the IPRA often reports to the BSEE Deputy Director rather than the Director. Moreover, our work found that the decision-making process of the IPRA Board—whereby the Board determines how to respond to an investigation without consulting the Director—does not align with the IPRA's prescribed reporting chain. Without assessing and amending its IPRA guidance to clarify (1) the severity threshold criteria for referring allegations and (2) the IPRA reporting chain, BSEE risks further eroding organizational trust in the IPRA to carry out its mission to promptly and credibly respond to allegations or evidence of misconduct by BSEE employees.

Chairman Farenthold, Ranking Member Plaskett, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

¹³ GAO-14-704G.

GAO Contact

If you or your staff have any questions about this testimony, please contact Frank Rusco, Director, Natural Resources and Environment, at (202) 512-3841 or ruscof@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement.

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