



GAO

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

B-323845

September 6, 2012

The Honorable Jeff Bingaman
Chairman
The Honorable Lisa Murkowski
Ranking Member
Committee on Energy and Natural Resources
United States Senate

The Honorable Doc Hastings
Chairman
The Honorable Edward J. Markey
Ranking Member
Committee on Natural Resources
House of Representatives

Subject: *Department of the Interior, Bureau of Safety and Environmental Enforcement: Oil and Gas and Sulphur Operations on the Outer Continental Shelf—Increased Safety Measures for Energy Development on the Outer Continental Shelf*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Interior, Bureau of Safety and Environmental Enforcement (BSEE), entitled “Oil and Gas and Sulphur Operations on the Outer Continental Shelf—Increased Safety Measures for Energy Development on the Outer Continental Shelf” (RIN: 1014-AA02). We received the rule on August 22, 2012. It was published in the *Federal Register* as a final rule on August 22, 2012. 77 Fed. Reg. 50,856.

The final rule amends drilling, well-completion, well-workover, and decommissioning regulations related to well-control, including: subsea and surface blowout preventers, well casing and cementing, secondary intervention, unplanned disconnects, recordkeeping, and well plugging.

Enclosed is our assessment of BSEE’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that BSEE complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Ned Farquhar
Deputy Assistant Secretary—
Land and Minerals Management
Department of the Interior

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE INTERIOR,
BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT
ENTITLED
"OIL AND GAS AND SULPHUR OPERATIONS ON THE
OUTER CONTINENTAL SHELF—INCREASED SAFETY MEASURES FOR
ENERGY DEVELOPMENT ON THE OUTER CONTINENTAL SHELF"
(RIN: 1014-AA02)

(i) Cost-benefit analysis

BSEE prepared a cost-benefit analysis in conjunction with the final rule. BSEE estimated the annual cost of the final rule will be approximately \$131 million per year. BSEE noted that there was uncertainty involved in the quantification of the benefits. However, BSEE estimated the benefits to be represented by the avoided costs of a catastrophic spill, which were estimated under the stipulated scenario as being \$16.3 billion per spill avoided and annualized at \$631 million per year.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

BSEE determined that the final rule directly impacts small entities, because it affects lessees, operators of leases, and drilling contractors on the Outer Continental Shelf. BSEE estimates that this could include about 130 active federal oil and gas lessees, and more than a dozen drilling contractors and their suppliers. Of the annual \$131 million in annual cost imposed by the final rule, BSEE estimates that \$12.7 million will apply to small businesses operating in deepwater and \$11.2 million to those operating in shallow water. In total, BSEE estimates that \$23.9 million or 18 percent of the rulemaking's cost will be borne by small businesses.

The Regulatory Flexibility Act requires an agency to consider alternatives to ease impacts on small businesses. BSEE stated that it considered such alternatives, and rejected the alternative because of the overriding need to reduce the risk of a catastrophic blowout event. BSEE determined that it would not be responsible for a regulator to compromise the safety of offshore personnel and the environment for any entity, including small businesses.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

BSEE determined that the final rule will not impose an unfunded mandate on state, local, or tribal governments, or the private sector, of more than \$100 million per year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On October 14, 2010, the Bureau of Offshore Energy Management, Regulation, and Enforcement (BOEMRE), which has since been replaced by the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE), published an interim final rule with request for comments in the Federal Register. 75 Fed. Reg. 63346. BSEE received 38 comments on the interim final rule. BSEE responded to those comments in the final rule. 77 Fed. Reg. 50,856.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains a collection of information that was submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act. OMB approved the collection of information and assigned OMB Control No. 1014-0020, with an approved annual burden of 5,347 hours for federal Outer Continental Shelf lessees and operators.

Statutory authorization for the rule

The final rule is authorized by the Outer Continental Shelf Lands Act, as codified at 43 U.S.C. § 1334.

Executive Order No. 12,866 (Regulatory Planning and Review)

BSEE stated that the final rule is a significant rule as determined by OMB and is subject to review under the Executive Order. BSEE prepared a regulatory impact analysis as required by the Executive Order.

Executive Order No. 13,132 (Federalism).

BSEE stated that final rule will not substantially and directly affect the relationship between the federal and state governments.