



441 G St. N.W.
Washington, DC 20548

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May 11, 2016

The Honorable Jim Inhofe
Chairman
The Honorable Barbara Boxer
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Rob Bishop
Chairman
The Honorable Raúl M. Grijalva
Ranking Member
Committee on Natural Resources
House of Representatives

Subject: *Department of the Interior, Bureau of Safety and Environmental Enforcement: Oil and Gas and Sulfur Operations in the Outer Continental Shelf—Blowout Preventer Systems and Well Control*

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 Sulfur Operations in the Outer Continental Shelf—Blowout Preventer Systems and Well Control" (RIN: 1014-AA11). We received the rule on April 28, 2016. It was published in the *Federal Register* as a final rule on April 29, 2016. 81 Fed. Reg. 25,888.

The final rule consolidates into one part the equipment and operational requirements that are found in various subparts of BSEE's regulations pertaining to offshore oil and gas drilling, completions, workovers, and decommissioning. This final rule focuses on blowout preventer and well-control requirements, including incorporation of industry standards and revision of existing regulations, and adopts reforms in the areas of well design, well control, casing, cementing, real-time well monitoring, and subsea containment. BSEE states that the final rule also addresses and implements multiple recommendations resulting from various investigations of the Deepwater Horizon incident. This final rule will also incorporate guidance from several Notices to Lessees and Operators and revise provisions related to drilling, workover, completion, and decommissioning operations to enhance safety and environmental protection.

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: Lakeisha Harrison
Chief, Regulations and Standards Branch
Bureau of Safety and Environmental Enforcement
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 SULFUR OPERATIONS IN THE
OUTER CONTINENTAL SHELF—
BLOWOUT PREVENTER SYSTEMS AND WELL CONTROL”
(RIN: 1014-AA11)

(i) Cost-benefit analysis

The Bureau of Safety and Environmental Enforcement (BSEE) included a cost-benefit analysis in the final rule. The final analysis covers 10 years (2016 through 2025) to ensure it encompasses the significant costs and benefits likely to result from the rule. BSEE used a 10-year analysis period because of the uncertainty associated with predicting the industry's activities and the advancement of technical capabilities beyond 10 years. When summarizing the costs and benefits, BSEE presented the estimated annual effects, as well as the 10-year discounted totals using discount rates of 3 and 7 percent. BSEE stated in the rule that based on its economic analysis of available data, this final rule will be cost-beneficial. The estimated overall cost of the rule (outside those costs that are part of the economic baseline) over 10 years will be exceeded by the time-savings benefits to the industry resulting from the revisions to the former requirements for blowout preventer (BOP) pressure testing frequency for workovers and decommissionings. In addition, according to BSEE, the final rule will also produce benefits to society, both quantifiable and unquantifiable, by reducing the probability of well control incidents involving oil spills.

BSEE sought to quantify and monetize the costs of 26 provisions and BSEE also quantified and monetized the potential benefits of the rule, including time savings, reductions in oil spills, and reductions in fatalities. BSEE estimated the benefits derived from time savings associated with § 250.737 of the rule, which streamlines BOP testing for workover. BSEE also estimated time-savings benefits associated with a change in the required frequency of BOP pressure testing under two alternatives, both of which would reduce the number of required BOP pressure tests per year (by reducing test frequency to once every 14 days and 21 days, respectively). In addition, BSEE estimated the benefits derived from the reduction in oil spills and fatalities using the incident-reducing potential of the rule as a whole. BSEE concluded that, after considering all of the impacts of the final rule, the societal benefits justify the societal costs. BSEE estimated that, over the 10-year economic analysis period, the quantifiable benefits of the rule (i.e., \$1,147 million with 7 percent discounting) will substantially exceed the quantifiable costs (i.e., \$686 million with 7 percent discounting).

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

BSEE states that it believes that this rule will likely have a significant economic impact on a substantial number of small entities and, therefore, a regulatory flexibility analysis was required by RFA. The final rule provided: (1) a description of the reasons for the actions being taken by the agency; (2) a description and estimated number of small entities regulated; (3) a description

and estimate of compliance requirements; (4) the total cost burden for small entities; (5) an identification of all relevant federal rules that may duplicate, overlap, or conflict with the rule; and (6) a description of significant alternatives to the rule.

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

In accordance with UMRA, BSEE determined that this rule will not impose an unfunded mandate on state, local, or tribal governments of more than \$100 million in a single year and will not have a significant or unique effect on state, local, or tribal governments. BSEE stated that it determined that the rule will impose costs on the private sector of more than \$100 million in a single year. Although these costs do not appear to trigger the requirement to prepare a written statement under UMRA, BSEE has chosen to prepare such a written statement satisfying the requirements of UMRA. Those requirements were addressed and the required statements are found in the final Regulatory Impact Analysis (RIA) and final RFA analysis or in the final rule.

Specifically, the final RIA, the final RFA analysis, or the final rule: (1) identified the provisions of federal law (Outer Continental Shelf Lands Act) under which this rule is being promulgated; (2) included a quantitative assessment of the anticipated costs to the private sector (i.e., expenditures on labor and equipment) of the final rule; and (3) included qualitative and quantitative assessments of the anticipated benefits of the final rule. According to BSEE, since all of the anticipated expenditures by the private sector analyzed in the final RIA and the final RFA analysis would be borne by the offshore oil and gas exploration industry, the final RIA and final RFA analysis satisfied the UMRA requirement to estimate any disproportionate budgetary effects of the proposed rule on a particular segment of the private sector (i.e., the offshore oil and gas industry).

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

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

On April 17, 2015, BSEE published a proposed rule. 80 Fed. Reg. 21,504. BSEE states that because blowout preventer equipment and systems are critical components of many well operations, it was important to collect the best ideas on the prevention of well-control incidents and blowouts to assist in the development of the proposed rule. BSEE therefore included the knowledge, skillset, and experience possessed by the offshore oil and gas industry in developing the proposed rule. Accordingly, BSEE states that it participated in meetings, training, and workshops with industry, standards setting organizations, and other stakeholders in developing the proposed rule. In response to the proposed rule, BSEE received over 172 sets of comments from individual entities (e.g., companies, industry organizations, non-governmental organizations, and private citizens). Some entities submitted comments multiple times. BSEE reviewed all comments and summarized and responded to all relevant and significant comments in the final rule.

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

BSEE states that the rule contains a collection of information that was submitted to the Office of Management and Budget (OMB) for review and approval under PRA. It proposed to revise the section of the existing regulation by updating the OMB control numbers, by rewording some of the explanations for BSEE's information collections, and by adding references to proposed new information collections. After considering comments submitted, BSEE included the proposed

language in the final rule without significant revisions. However, in response to certain comments, BSEE revised the estimated burden hours for compliance with some of the information collections in the final rule.

The title of the collection of information for this rule is 30 C.F.R. part 250, subpart G, Well Operations and Equipment. OMB approved the collection under Control Number 1014-0028, with an expiration date of April 30, 2019, and 285,111 hours, and \$102,500 non-hour cost burdens. The information collection concerns BOP system requirements and maintaining well control among others; the information is used in BSEE's efforts to regulate oil and gas operations on the outer continental shelf, to protect life and the environment, conserve natural resources, and prevent waste. Potential respondents comprise federal outer continental shelf oil, gas, and sulfur operators and lessees. The frequency of response varies depending upon the requirement. Responses to this collection of information are mandatory or are required to obtain or retain a benefit. The information collection does not include questions of a sensitive nature.

Statutory authorization for the rule

BSEE promulgated this rule under its authority from the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. §§ 1331-1356a.

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

BSEE determined that this rule is a significant rulemaking within the definition of Executive Order No. 12,866 because the estimated annual costs or benefits would exceed \$100 million in at least 1 year of the 10-year analysis period. Accordingly, the Office of Management and Budget has reviewed this regulation.

Executive Order No. 13,132 (Federalism)

According to BSEE, this rule does not have federalism implications. The rule will not substantially and directly affect the relationship between the federal and state governments. To the extent that state and local governments have a role in outer continental shelf activities, this rule will not affect that role. BSEE concluded that a federalism assessment is not required.