



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

The Bureau of Safety and Environmental Enforcement Made Progress in Implementing Corrective Actions to Improve Its Oil Spill Preparedness Program

This is a revised version of the report prepared for public release.



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

SEP 09 2022

Memorandum

To: Kevin M. Sligh, Sr.
Director, Bureau of Safety and Environmental Enforcement

Tonya R. Johnson
Deputy Chief Financial Officer, Director of the Office of Financial Management

From: Kathleen Sedney 
Assistant Inspector General for Audits, Inspections, and Evaluations

Subject: Final Inspection Report – *The Bureau of Safety and Environmental Enforcement Made Progress in Implementing Corrective Actions to Improve Its Oil Spill Preparedness Program*
Report No. 2022–CR–009

This memorandum transmits our inspection report on the Bureau of Safety and Environmental Enforcement's (BSEE's) oil spill preparedness program. Our objective was to determine the status of the eight recommendations made in our evaluation report titled *BSEE Has Opportunities To Help Industry Improve Oil Spill Preparedness* (Report No. 2017–EAU–043, issued October 22, 2018).

We will refer Recommendation 2 of this report to the Office of Policy, Management and Budget for implementation tracking and to report to us on its status. We consider Recommendations 1 and 3 resolved and implemented, and no further action is required. See Appendix 2 for the status of previous recommendations from our 2018 evaluation. In addition, we will notify Congress about our findings, and we will report semiannually, as required by law, on actions you have taken to implement the recommendations and on recommendations that have not been implemented. We will also post a public version of this report on our website.

If you have any questions about this report, please call me at 202–208–5745.

Contents

Results in Brief..... 1

Introduction..... 2

 Objective..... 2

 Background..... 2

Results of Inspection 4

 BSEE Strengthened Government-Initiated Unannounced Exercises..... 4

 BSEE Drafted Revisions to Outdated Regulations and Agreements..... 7

Conclusion and Recommendations..... 14

 Conclusion..... 14

 Recommendations Summary 14

Appendix 1: Scope and Methodology..... 17

 Scope 17

 Methodology 17

Appendix 2: Status of Recommendations From 2018 Evaluation..... 19

Appendix 3: Response to Draft Report..... 21

Appendix 4: Status of New Recommendations 25

Results in Brief

What We Reviewed

The Bureau of Safety and Environmental Enforcement (BSEE) is responsible for ensuring operators of offshore facilities are ready to mitigate and respond to oil spills that may result from their activities. In October 2018, we issued an evaluation report, *BSEE Has Opportunities To Help Industry Improve Oil Spill Preparedness* (Report No. 2017–EAU–043). In this report, we reviewed the extent to which the eight recommendations made in our 2018 evaluation report were implemented.

What We Found

We found that BSEE addressed many of the issues identified in our previous report and has made progress in strengthening its oil spill preparedness program by implementing six of our eight previous recommendations. Specifically, BSEE strengthened Government-initiated unannounced exercises by improving recordkeeping of After Action Reports, documenting strategies for selecting operators and facilities, and implementing additional spill notification procedures. BSEE also made progress in updating outdated regulations and agreements by clarifying the enforcement authority of its Oil Spill Preparedness Division, determining whether additional State agreements were needed, and coordinating response equipment verifications with States. BSEE is actively pursuing regulatory revisions and updating agreements with State agencies to address the two remaining recommendations from our previous evaluation and expects to complete implementation by the end of fiscal year 2022.

However, we identified areas in which BSEE could further strengthen internal controls. Specifically, BSEE has not formalized spill notification procedures for each of its regions or its agreement for coordinating spill preparedness functions with Alabama, and the methods BSEE used for equipment verification coordination with State offices varied.

Why This Matters

From 2018 through 2020, BSEE identified 44 separate oil spills. To enhance safety and environmental protection on the Outer Continental Shelf, BSEE is responsible for determining if the operator of a lease or facility is prepared to respond to an oil spill and therefore plays a key role in national preparedness. Continuing to make process improvements to its Oil Spill Preparedness program is critical to protecting the health and safety of the public and the environment.

What We Recommend

We make three new recommendations to further strengthen BSEE's oil spill preparedness program.

Introduction

Objective

Our objective was to determine the status of the eight recommendations made in our evaluation report titled *BSEE Has Opportunities To Help Industry Improve Oil Spill Preparedness* (Report No. 2017–EAU–043, issued October 22, 2018).

See Appendix 1 for our scope and methodology.

Background

From 2018 through 2020, BSEE identified 44 separate spills of more than 1 barrel each.¹ Many spills are relatively small, but major incidents can result in uncontrolled flows and extensive damage to public health and the local ecosystem. The following recent examples of significant marine oil spills included response or investigation by BSEE:

- In October 2021, an oil spill originated from an underwater pipeline connected to a production platform approximately 5 miles offshore from Long Beach, CA. At least 25,000 gallons of oil spilled into the Pacific Ocean, and the spill polluted an estimated 34 square miles of ocean along the coast.
- In March 2019, equipment failure and human error caused pollution at a production platform off the coast of Louisiana, where a 6-mile-long film of oil was visible on the water's surface.
- In October 2017, after Hurricane Nate, a spill went undetected for more than 24 hours, and an estimated 672,000 gallons of oil were released into the Gulf of Mexico.

Responding to Oil Spills

Responding to oil spills involves a coordinated effort by stakeholders from the National Response System. The National Response System includes Federal on-scene coordinators (OSCs)² from the U.S. Coast Guard and the Environmental Protection Agency (EPA); other Federal agencies, including the U.S. Department of the Interior (DOI); State and local governments; the responsible party³; and oil spill removal organizations.⁴ These groups share

¹ BSEE collects offshore incident reports from operators and uses the results to identify incident causes, trends, and appropriate actions. BSEE requires reporting for all spills of more than one barrel (or 42 gallons) of oil, drilling mud, and other chemicals.

² A Federal OSC is a representative of a Federal agency who oversees the oil spill response effort and provides support and information to local, State, and regional response communities. An OSC is an agent of either the EPA or the U.S. Coast Guard, depending on where the incident occurs. The EPA's OSCs have primary responsibility for spills and releases in inland areas and waters. The U.S. Coast Guard's OSCs have responsibility for coastal waters and the Great Lakes.

³ The Oil Pollution Act of 1990, 33 U.S.C. § 2701, refers to the owner or operator of the vessel or facility that caused the spill as the "responsible party" but does not imply criminal negligence.

⁴ Oil spill removal organizations are companies that specialize in cleaning up oil spills. They often serve as contractors or subcontractors for spill response efforts.

expertise and resources to ensure that response and cleanup activities are timely, efficient, and minimize threats to human health and the environment.

The responsible party is required to take immediate action to “abate the source of a spill and remove any spills of oil.”⁵ During an offshore oil spill, BSEE executes important responsibilities alongside its response partners to control the source of the spill and mitigate its effects. BSEE also performs numerous prevention and mitigation functions to improve the Nation’s spill preparedness and response capabilities.

BSEE’s Oil Spill Preparedness Division

BSEE oversees oil spill planning and preparedness for oil and gas exploration, development, and production in both Federal and State offshore waters of the United States. Its oil spill preparedness program draws its mandate and purpose from the Federal Water Pollution Control Act of 1972⁶ (Clean Water Act) and the Oil Pollution Act of 1990.⁷ According to BSEE, it works to mitigate oil spill risks through a focused prevention program and emphasizes that the private sector must be prepared with the best plans, equipment, and training to respond to oil spills when they occur. BSEE’s Oil Spill Preparedness Division (OSPD) administers all functions related to BSEE’s authorities in oil spill planning and preparedness.

Established in October 2011, shortly after the Deepwater Horizon disaster, BSEE’s OSPD is responsible for determining if the operator of a lease or facility is prepared to respond to an oil spill. The OSPD plays a key role in national preparedness, public health and safety, and environmental protection. In accordance with Federal regulations,⁸ the OSPD reviews operators’ oil spill response plans, inspects response equipment, and conducts exercises to ensure operators of offshore facilities are trained and equipped to respond to oil spills.

Summary of Findings From Our 2018 Evaluation

Our October 2018 report, *BSEE Has Opportunities To Help Industry Improve Oil Spill Preparedness* (Report No. 2017–EAU–043), evaluated BSEE’s oil spill preparedness program and made eight recommendations to help BSEE fulfill its responsibility to assist industry’s preparation for oil spill response. The report identified weaknesses in the management and documentation of spill exercises and inspections as well as outdated regulations and agreements that hamper response management.

⁵ 30 C.F.R. § 254.5(c).

⁶ Federal Water Pollution Control Act of 1972 (Clean Water Act), Pub. L. 92–500.

⁷ The Oil Pollution Act of 1990, 33 U.S.C. § 2701, amended the Clean Water Act and addressed the wide range of problems associated with preventing, responding to, and paying for oil pollution incidents in navigable waters of the United States.

⁸ 30 C.F.R. § 254 requires all owners or operators of offshore oil handling, storage, or transportation facilities to have adequate oil spill response plans that illustrate the company’s ability to respond to a spill, including the availability of response personnel and equipment. BSEE reviews and approves these oil spill response plans.

Results of Inspection

We found that BSEE addressed many of the issues identified in our 2018 evaluation report and has taken steps to strengthen its oil spill preparedness program. Specifically, BSEE implemented six of eight recommendations and:

- Improved recordkeeping of Government-initiated unannounced exercise (GIUE) After Action Reports (AARs);
- Documented its strategy for selecting operators and facilities for GIUEs;
- Implemented spill notification procedures;
- Clarified its enforcement authority;
- Determined whether additional State agreements were needed; and
- Coordinated response equipment verifications (EVs) with States.

BSEE is also actively pursuing regulatory revisions and updating agreements with State agencies to address the two remaining recommendations. BSEE expects to complete implementation of these initiatives by the end of fiscal year (FY) 2022.

We reviewed and analyzed the actions BSEE took to close the previous recommendations. We make three new recommendations to BSEE to finalize ongoing actions related to regional procedures and agreements with States, as well as improve its coordination with State offices for EVs.

BSEE Strengthened Government-Initiated Unannounced Exercises

We found that BSEE addressed the GIUE documentation and spill notification issues mentioned in our previous report. Specifically, we confirmed that BSEE:

- Corrected the identified documentation weaknesses in GIUE files related to AARs (Recommendation 1) and operator selection justifications (Recommendation 2); and
- Worked with the U.S. Coast Guard to develop and implement additional procedures for timely spill notifications from the National Response Center (Recommendation 3).

We consider Recommendations 1, 2, and 3 closed and implemented, and we make one new recommendation to finalize and implement regional operating procedures related to timely oil spill notifications.

GIUE Recordkeeping and Selection Documentation Improved— Recommendations 1 and 2

One of the OSPD's primary methods for ensuring industry oil spill readiness is the GIUE. GIUEs test an operator's ability to respond successfully to a simulated oil spill scenario and enable the OSPD to evaluate industry's response preparedness before a real oil spill occurs. Although our previous report recognized that the OSPD designed a strong GIUE program, we also identified issues impacting the management of GIUEs:

- **Recordkeeping.** We previously found that the OSPD did not always maintain complete GIUE records. Specifically, we found inconsistencies in documentation of AARs and justifications for the OSPD's selection of the operator to be tested.
- **Selection Strategy and Frequency of Tests.** We previously identified that the OSPD lacked a documented strategy for selecting operators and facilities to participate in GIUEs. The absence of a selection strategy could result in some operators being tested more often than others without a rationale for doing so.

We made two recommendations related to these concerns:

Recommendation 1: Correct the identified recordkeeping and documentation weaknesses in the GIUE files concerning after-action reports and operator selection justification.

Recommendation 2: Develop and implement a GIUE selection strategy to ensure that the rationale for selecting companies to participate in GIUEs is documented and that these companies are tested within an established timeframe.

In response to Recommendation 1, the OSPD's Preparedness Verification Branch conducted an internal review of post-GIUE actions with a focus on AARs. Based on the results of this review, the OSPD implemented a policy in January 2018 that reinforced the GIUE AAR requirements outlined in the OSPD manual.⁹ The new policy outlined how the AARs were to be drafted, including the required format and content, as well as requiring information regarding operator selection justification.

To determine whether these actions resolved the documentation issues that led to Recommendations 1 and 2, we reviewed all 38 GIUEs the OSPD conducted from October 22, 2018, through October 31, 2021. We found that the OSPD documented the results of each GIUE in AARs, which included the scope and lessons learned from the exercises. Additionally, we found that each AAR included operator selection justifications to document the reason for choosing a particular operator or facility to test. For instance, the OSPD justified selections for some of the GIUEs we reviewed by noting poor performance in a previous exercise, revised response plans, or length of time since an operator or facility had been tested.

⁹ *Oil Spill Preparedness Division Manual: Standard Operating Procedures for 30 C.F.R. § 254 Regulatory Activities*, 2019 Edition. The OSPD manual includes internal agency guidelines, processes, and other requirements for OSPD employees.

We noted, however, that the OSPD did not finalize all GIUE AARs in a timely manner. The OSPD manual states that the final AAR should be disseminated to GIUE participants no more than 60 days after the exercise is conducted. However, 4 of 38 AARs we reviewed were not signed within 60 days of the exercise date. Of those four AARs, three were signed within 61 to 90 days, and one remained unsigned for over a year. We acknowledge that 89 percent of the reports were finalized and signed within the established timeframe. However, AARs capture exercise observations and make recommendations for post-GIUE improvements, and BSEE should accordingly emphasize timely completion of those records.

In response to Recommendation 2, the OSPD began publishing annual preparedness verification strategies to plan its oversight and evaluation functions. These strategies, along with comprehensive AARs, identified factors for GIUE selection. The OSPD manual also identified timeframes and risk factors that would warrant a follow-up GIUE for an operator or facility. To ensure operators cannot predict upcoming exercises, the manual did not establish a fixed upper limit on the time between GIUEs.

Based on actions the OSPD took to address exercise documentation weaknesses, we consider Recommendations 1 and 2 implemented and closed.

Spill Notification Procedures Implemented—Recommendation 3

We also previously reported that BSEE offices did not respond to spill notifications¹⁰ in a timely manner during GIUEs the evaluation team observed. Therefore, we made a recommendation to address oil spill notifications:

Recommendation 3: Work with the various BSEE offices and the U.S. Coast Guard to develop a method that ensures the timely receipt and confirmation of an oil spill notification.

To address this recommendation, the OSPD worked with the U.S. Coast Guard to develop additional procedures for timely spill notifications from the Coast Guard's National Response Center.¹¹ The Center uses the incident reporting information system to collect and disseminate information regarding pollution, oil, and other discharges into the environment to Federal, State, and local OSCs in real time. The OSPD coordinated with the U.S. Coast Guard to receive these real-time incident notifications, and the Coast Guard confirmed the OSPD's access to the notifications, effective January 19, 2019.

Additionally, BSEE provided guidance to lessees and operators on how to report incidents, spills, and pipeline damage information to BSEE¹²; BSEE similarly provided contact information for

¹⁰ All owners or operators of offshore oil facilities are required to immediately report any observed spills of oil or other liquid pollutant to the appropriate BSEE office. 30 C.F.R. § 254.46.

¹¹ The National Response Center is not a direct response agency. Instead, it serves as an emergency call center that fields initial reports for pollution and railroad incidents and forwards that information to appropriate Federal or State agencies for response.

¹² "Notice to Lessees and Operators of Federal Oil, Gas, and Sulphur Leases and Pipeline Right-of-Way Holders on the Outer Continental Shelf: Incident and Spill Reports" (NTL No. 2019–N05), effective December 3, 2019.

industry spill reporting in the Gulf¹³ and Pacific.¹⁴ In May 2019, BSEE headquarters also issued policy that required each BSEE region to establish procedures to ensure that its personnel were always available for incident reporting and oil spill notifications.¹⁵ The Gulf of Mexico region already had regional procedures in place,¹⁶ which included expectations for its employees responsible for answering incident or oil spill notifications, before BSEE headquarters issued the policy.

We requested finalized regional procedures for all BSEE regions and found that, as of April 2022, the Alaska and Pacific regional procedures have not been finalized. BSEE officials from these regions stated that they are continuing to work with BSEE’s Office of Policy and Analysis to formalize their local procedures.

We reviewed the actions BSEE took to issue internal policy and external guidance to operators as well as the modified access to real-time incident notifications. In light of these steps, we consider Recommendation 3 implemented and closed. However, we make a new recommendation to BSEE to ensure that its Alaska and Pacific regions finalize and implement regional oil spill notification procedures as required by the May 2019 BSEE headquarters policy.

Recommendation
<p>We recommend that BSEE:</p> <ol style="list-style-type: none">1. Finalize and implement Alaska and Pacific regional operating procedures to ensure that personnel are always available to respond to incident or oil spill notifications, in accordance with Bureau Interim Directive 2019-081N.

BSEE Drafted Revisions to Outdated Regulations and Agreements

BSEE has taken steps to draft updated regulations and State agreements to improve the OSPD’s ability to provide effective oversight of industry oil spill preparedness. It has also started addressing the enforcement authority issues identified in our previous report. Specifically, we confirmed that BSEE:

¹³ “Notice to Lessees and Operators of Federal Oil, Gas, and Sulphur Leases and Pipeline Right-of-Way Holders on the Outer Continental Shelf, Gulf of Mexico Region: Incident, Oil Spill, and Permit Request Notification (Regular Hours and After-Hours Guidance)” (NTL No. 2018-G02), effective September 27, 2018.

¹⁴ “Notice to Lessees and Operators of Federal Oil, Gas, and Sulphur Leases and Pipeline Right-of-Way Holders in the Pacific Outer Continental Shelf Region: Contact with the Bureau of Safety and Environmental Enforcement Pacific Outer Continental Shelf Region Offices During and Outside Regular Work Hours” (NTL No. 2020-P01), effective May 13, 2020.

¹⁵ “Policy for Ensuring that BSEE is a 24-Hour Response Organization” (BID No. 2019-081N), effective May 15, 2019.

¹⁶ “Expectations for Answering Calls During and After Normal Operating Hours” (BID No. 2018-057G), effective September 27, 2018.

- Drafted revisions to 30 C.F.R. § 254 (Recommendation 4);
- Clarified its enforcement authority to address operator noncompliance with regulations (Recommendation 5);
- Drafted updates to existing State agreements with Alaska, California, Louisiana, and Texas (Recommendation 6);
- Determined whether agreements should be established with other coastal States (Recommendation 7); and
- Confirmed each State’s participation interest for equipment verifications (EVs) and issued a June 2019 memorandum that outlined State responsibilities, authorities to perform EVs, and State points of contact for BSEE EVs (Recommendation 8).

Because the actions taken to address Recommendations 4 and 6 have not been completed, these recommendations will remain open until regulations and agreements are updated and closure is requested by BSEE. We consider Recommendations 5, 7, and 8 closed and implemented, and we make a new recommendation to implement BSEE’s proposed agreement with Alabama. We also make another new recommendation to implement a consistent process for coordinating EVs with relevant State offices.

Progress Made in Updating Oil Spill Regulations—Recommendation 4

The OSPD enforces Federal law and regulations relating to oil spill preparedness and response, but many of these provisions were established decades ago, such as 30 C.F.R. § 254 and the Oil Pollution Act of 1990. We previously reported that outdated regulations hindered the OSPD’s ability to oversee industry’s oil spill preparedness. 30 C.F.R. § 254, which governs management of oil spill preparedness and response, did not address developments that have occurred since its enactment in 1997, including those affecting technology, scientific knowledge, lessons learned, and modeling techniques. In addition, the regulations did not authorize the Government to conduct performance testing of all response equipment. We recommended that BSEE:

Recommendation 4: Revise the regulations under 30 C.F.R. § 254 for managing oil spill preparedness and response.

We found that BSEE has made progress toward revising regulations for managing oil spill preparedness and response under 30 C.F.R. § 254, but the recommendation has not yet been fully implemented. BSEE’s target implementation date for the 30 C.F.R. § 254 revision is September 2022, but officials noted that potential environmental impact analyses could further delay the revision. Figure 1 shows a timeline of the regulatory update initiative.

Figure 1: BSEE Regulatory Update Timeline (2016–2022)

February 2016	BSEE completes spill response capabilities analyses, calculators, and manuals
November 2016– March 2017	Rulemaking for oil spill response pauses because of staffing shortages
August 2017	The OSPD provides regulatory update paper to the OIG
November 2017	The OSPD and the Office of Offshore Regulatory Programs (OORP) meet to discuss status of economic analysis; the OORP reiterates that rulemaking is not a current priority for BSEE
May 2018	The OSPD provides regulatory update white paper to Regulation Reform 2.0 Working Group; no feedback received
September 2018	The OSPD begins building comprehensive crosswalk and comparison table between existing C.F.R. requirements and draft regulatory update
October 2018	OIG issues Report No. 2017–EAU–043
July–August 2019	The OSPD and the OORP prepare an issue memo for the BSEE Director’s approval
February 2020	The OSPD pauses regulatory work as BSEE works to address other regulatory activities
April 2021	The OSPD and the OORP re-initiate coordination of the regulatory process, and the OSPD restarts work on updates to draft regulatory text
November 2021– February 2022	The OSPD and the OORP begin joint review sessions of regulatory text in preparation for economic analysis for rulemaking provisions

Source: BSEE OSPD

We concluded that the OSPD is actively pursuing a comprehensive set of regulatory revisions to advance the proposed changes to 30 C.F.R. § 254. Recommendation 4 will remain open until 30 C.F.R. § 254 is updated and closure documentation is provided to the OIG.

Enforcement Authority Clarified—Recommendation 5

We previously reported that the Oil Pollution Act of 1990 and the Outer Continental Shelf Lands Act (OCSLA) of 1953¹⁷ did not expressly give the OSPD authority to take action when it detected noncompliance with the C.F.R. We reported that the OSPD needed clarification on its enforcement authority and recommended that BSEE:

Recommendation 5: Work with the Office of the Solicitor (SOL) and Congress to resolve outstanding issues involving the OSPD’s enforcement authority.

¹⁷ 43 U.S.C. § 1331 et seq.

In 2018 and 2019, the OSPD worked with the SOL to clarify its enforcement authority and address this recommendation. Before 2018, the OSPD issued incidents of noncompliance under authority from the OCSLA if it determined that an operator was not operating its facilities in compliance with an approved oil spill response plan. However, after further review, the SOL and BSEE determined that the OCSLA granted civil penalty authority to the BSEE regions, not the OSPD.¹⁸

Instead, the SOL concluded that the OSPD had authority under the Clean Water Act and 30 C.F.R. § 254 to issue noncompliance letters and enforce the terms of operators' oil spill response plans. If operators do not comply with their approved oil spill response plan, or if noncompliance is not resolved in a timely manner, the SOL concluded that the OSPD may rely on these authorities to suspend the approval of an operator's oil spill response plan and shut down operations until compliance is realized.

We interviewed OSPD officials who stated that the OSPD's enforcement authority under the Clean Water Act will be clarified and codified in a forthcoming update to 30 C.F.R. § 254. OSPD officials considered the regulation update an important step in formalizing the OSPD's current enforcement processes and detailing its authorities to approve or suspend operators' oil spill response plans. Although the regulatory update has not been completed, the actions BSEE has already taken to resolve the OSPD's enforcement authority meet the intent of Recommendation 5, and we consider the recommendation implemented and closed.

Progress Made in Updating Existing Agreements With States— Recommendation 6

The OSPD uses various agreements with coastal States to coordinate its oil spill preparedness functions. We previously found that BSEE's existing agreements with coastal States for coordinating spill preparedness functions were outdated or that, in some cases, there were no agreements in place.

Specifically, agreements were in effect with Alaska, California, Louisiana, and Texas at the time of our earlier reporting, but these agreements were outdated and did not align with BSEE's current policies and procedures. We recommended that BSEE:

Recommendation 6: Update and revise the existing agreements between BSEE and State governments for coordinating spill preparedness functions.

We found that BSEE made progress toward revising the existing agreements between BSEE and State governments for coordinating spill preparedness functions, but its actions are not yet complete. BSEE finalized an updated agreement with California in March 2022 and drafted updates to existing agreements with Alaska, Louisiana, and Texas to amend points of contact, Federal and State processes, enforcement actions, and information exchange practices. BSEE negotiated with each State and coordinated with the SOL and Office of the Executive Secretariat

¹⁸ The OSPD is organized separately from BSEE's three regional offices and, according to BSEE's [Budget Justifications and Performance Information for Fiscal Year 2022](#), is funded through a separate oil spill research appropriation and the Oil Spill Liability Trust Fund.

and Regulatory Affairs to finalize agreement language and the associated press release. According to BSEE, finalization of these agreements was delayed due to internal and external review processes and other circumstances, such as hurricane response obligations and new State points of contact.

In response to our draft report, the OSPD provided the following update on revisions to Alaska, Louisiana, and Texas agreements, as of July 14, 2022.

- Alaska – Agreement language was updated to align with the California agreement. The OSPD reviewed the Alaska Department of Environmental Conservation edits and sent the final draft agreement to Alaska on July 12, 2022.
- Louisiana – The OSPD and the Louisiana Oil Spill Coordinator’s Office finalized revisions to the agreement, and BSEE requested signature authority from DOI.
- Texas – Agreement language was updated in February 2022 to align with the California agreement. The OSPD stated that the Texas General Land Office was unresponsive to OSPD the OSPD’s attempts to advance the agreement in April and May 2022.

Recommendation 6 will remain open until outdated agreements with Alaska, Louisiana, and Texas State agencies are revised and closure documentation is provided to the OIG.

Determined Need for New Agreements—Recommendation 7

In our 2018 evaluation report, we also found that, in some cases, there were no agreements for coordinating spill preparedness functions between BSEE and particular coastal States. We recommended that BSEE:

Recommendation 7: Determine whether agreements with other States (e.g., Alabama and Mississippi) should be established.

We found that the OSPD, in conjunction with relevant State offices, determined whether agreements were necessary and appropriate. Specifically, the OSPD coordinated with Alabama, Mississippi, and Florida to determine whether agreements should be pursued. The OSPD and Alabama decided to pursue an agreement, which is now in draft. After coordinating with Mississippi and Florida, the OSPD and State offices determined that no active facilities were present in Mississippi or Florida waters and that agreements were not necessary. Additionally, in its response to our previous report, BSEE stated that no need existed for agreements with other Atlantic Coast States, Oregon, or Washington because no oil leases were active in these states. We reviewed the OSPD’s actions and consider Recommendation 7 from our previous report to be resolved and implemented.

On November 2, 2021, the OSPD sent Alabama updated draft language consistent with California’s agreement. The OSPD and the Alabama Department of Environmental Management continue to develop a formalized agreement. Therefore, we recommend that BSEE finalize and implement its proposed agreement with Alabama.

Recommendation
<p>We recommend that BSEE:</p> <ol style="list-style-type: none">2. Finalize and implement a formal agreement with Alabama to coordinate oil spill preparedness functions.

Improved Coordination of Equipment Verifications—Recommendation 8

Our 2018 evaluation report noted that the OSPD had not coordinated with Alaska and Texas for inspections of oil response equipment according to the State agreements. Therefore, we recommended that BSEE:

Recommendation 8: Coordinate inspections of response equipment with States, pursuant to existing agreements.

To address this recommendation, the OSPD coordinated with Alaska, California, Louisiana, and Texas, which had existing agreements with BSEE, to confirm each State’s interest in joint participation in OSPD-led equipment verifications (EVs). In addition, to ensure the OSPD coordinated with States when inspecting spill response equipment, the OSPD’s Preparedness Verification Branch signed a June 2019 memorandum that outlined State responsibilities, authorities to perform EVs, and State points of contact for BSEE EVs. Additionally, the OSPD manual included a job aid with a checklist item to send an EV notification email to the applicable State agency.¹⁹

To confirm the OSPD coordinated EVs with States in accordance with existing agreements and the OSPD manual, we sampled 17 EVs from July 30, 2019,²⁰ through September 30, 2021, and reviewed documented communications between the OSPD and applicable State offices. We found that the OSPD generally used email to coordinate EVs with State agency points of contact. The OSPD met the intent of our previous recommendation by confirming each State’s participation interest for EVs and issuing its June 2019 memorandum. Therefore, we consider Recommendation 8 implemented and closed.

However, we identified inconsistencies with the manner in which the OSPD notified States of upcoming EVs. For 4 of the 6 Louisiana EVs sampled, neither the OSPD nor Louisiana Oil Spill Coordinator’s Office had record of coordination. In addition, as shown in Figure 2, the form of coordination varied from State to State and EV to EV for the 17 EVs in our sample.

¹⁹ *Oil Spill Equipment Preparedness Verification Job Aid*, “Oil Spill Preparedness Division Manual: Standard Operating Procedures for 30 C.F.R. § 254 Regulatory Activities,” 2019 Edition.

²⁰ BSEE requested closure of the associated recommendation on July 30, 2019. Therefore, we examined EVs conducted after this date.

Figure 2: OSPD Coordination With States for Equipment Verifications

State	Site	EV Date	Form of Coordination
AK	Oooguruk	06/15/2020	Email and site visit letter
CA	Ventura	09/05/2019	Email and site visit letter
CA	Compton	09/09/2019	Email and site visit letter
CA	Cojo Mooring	09/23/2020	Email and site visit letter
CA	Santa Barbara	09/22/2021	Email and site visit letter
LA	Lafayette	09/04/2019	Email and site visit letter
LA	Houma	08/13/2020	No record
LA	Gonzales	09/15/2020	No record
LA	Houma	03/30/2021	Email
LA	Belle Chasse	02/26/2020	No record
LA	Lake Charles	09/17/2020	No record
TX	Houston	08/27/2019	Email, site visit letter, and monthly inspection plan
TX	Deer Park	08/31/2020	Email and monthly inspection plan
TX	Port Arthur	05/25/2021	Monthly inspection plan
TX	Ingleside	12/11/2019	Monthly inspection plan
TX	Beaumont	03/05/2020	Monthly inspection plan
TX	Aransas	01/26/2021	Monthly inspection plan

Additionally, Louisiana officials stated that they were aware of only two EVs the OSPD conducted in Louisiana in 2021; according to OSPD records, however, a total of 16 EVs had been conducted in Louisiana during that year. By implementing a consistent, documented method for coordinating with States, BSEE could improve its recordkeeping and communication with States when it verifies the readiness of spill response equipment.

We determined that, although the OSPD coordinated with States to outline participation in EVs, it has not established consistent EV notification procedures for all State offices. To resolve these discrepancies and ensure each coastal State receives uniform, consistent information regarding BSEE EVs conducted in that State, the OSPD should implement a standard process for coordinating with States, such as the batched monthly plans sent to Texas.

Recommendation
<p>We recommend that BSEE:</p> <ol style="list-style-type: none"> 3. Develop, document, and implement a consistent process to coordinate equipment verifications with relevant State offices.

Conclusion and Recommendations

Conclusion

We found that BSEE addressed many of the issues identified in our previous report and has made progress in strengthening its oil spill preparedness program. Specifically, BSEE took actions to:

- Improve recordkeeping of GIUE AARs;
- Document its strategy for selecting operators and facilities to participate in GIUEs;
- Implement spill notification procedures;
- Clarify its enforcement authority;
- Determine whether additional State agreements were needed; and
- Coordinate response EVs with States.

We reaffirmed implementation and closure of Recommendation 1 and concurred that Recommendations 2, 3, 5, 7, and 8 have also been resolved and implemented. In addition, BSEE was actively pursuing regulatory revisions and updating agreements with State agencies to address the two remaining recommendations from our previous evaluation. BSEE expects to request closure of these two recommendations by the end of FY 2022. See Appendix 2 for the status of each recommendation from our previous evaluation.

We also found that the OSPD had not formalized all regional spill notification procedures or its agreement for coordinating spill preparedness functions with Alabama, and the OSPD's coordination with State offices for EVs was either inconsistent or did not occur.

Recommendations Summary

We provided a draft of this report to BSEE for review. BSEE concurred with the three new recommendations. Based on information BSEE provided in response to the draft report, we consider Recommendations 1 and 3 resolved and implemented and Recommendation 2 resolved but not implemented. Below we summarize BSEE's response to our recommendations, as well as our comments on its responses. See Appendix 2 for the status of previous recommendations from our 2018 evaluation; Appendix 3 includes the full text of BSEE's response; Appendix 4 lists the status of the new recommendations.

To further strengthen its oversight responsibilities of industry's oil spill response readiness, we recommend that BSEE:

1. Finalize and implement Alaska and Pacific regional operating procedures to ensure that personnel are always available to respond to oil spill notifications, in accordance with Bureau Interim Directive 2019--081N.

BSEE Response: BSEE concurred with this recommendation and “stated that it issued regional 24-hour response directive supplements for its Alaska and Pacific regions, to convey the minimum expectations for employees that are responsible for answering calls to BSEE regional offices both during and after normal operating hours. BSEE provided copies of the directives, which became effective August 24 business hours.” The estimated completion date was July 31, 2022.

OIG Comment: Based on BSEE's response and actions taken to implement Alaska and Pacific regional operating procedures for its staff regarding 24-hour response, we consider Recommendation 1 resolved and implemented.

2. Finalize and implement a formal agreement with Alabama to coordinate oil spill preparedness functions.

BSEE Response: BSEE concurred with this recommendation and stated that it is “continuing efforts to negotiate a Memorandum of Understanding (MOU) with the State of Alabama Department of Environmental Management” in response to our 2018 report. BSEE provided a list of efforts it has taken to negotiate the draft agreement with Alabama throughout 2021. BSEE stated that it submitted additional changes to Alabama in November 2021 but that it had not received a response from the State as of June 14, 2022. It proposed a target implementation date of September 30, 2023.

OIG Comment: We consider Recommendation 2 resolved but not implemented. We will consider this recommendation implemented and closed when BSEE finalizes and implements a formal agreement with Alabama. However, BSEE's target implementation date for this recommendation is over a year from this report's issuance date, which is a concern to our office. BSEE should revise its target implementation date and provide the revised date to the PMB. If the revised date is more than 1 year from this report's issuance date, BSEE should establish mitigating measures until the recommendation is fully implemented.

3. Develop, document, and implement a consistent process to coordinate equipment verifications with relevant State offices.

BSEE Response: BSEE concurred with this recommendation and stated that it issued a policy memorandum titled *State Notification Procedures for Equipment Verifications*, dated June 13, 2022, which “provides guidance on state agency notification requirements for equipment verifications (EVs).” BSEE also stated that “analysts are required to notify identified state contacts when planning EV visits and to report results to the contacts.” BSEE provided a copy of the policy with its response to the draft report.

OIG Comment: Based on BSEE's response and actions taken to implement State notification procedures for its staff regarding EVs, we consider Recommendation 3 resolved and implemented.

Appendix 1: Scope and Methodology

Scope

The scope of our inspection included the Bureau of Safety and Environmental Enforcement's (BSEE's) actions taken to address the eight recommendations made in our evaluation report titled *BSEE Has Opportunities To Help Industry Improve Oil Spill Preparedness* (Report No. 2017–EAU–043, issued October 22, 2018). As a result of the global COVID-19 pandemic and associated limitations on our ability to travel, we performed this inspection virtually and did not conduct site visits or observe BSEE's Oil Spill Preparedness Division (OSPD) readiness oversight activities.

Methodology

We conducted our inspection in accordance with the *Quality Standards for Inspection and Evaluation* as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusions and recommendations.

To accomplish our objective, we:

- Gathered and reviewed background information about BSEE's oil spill preparedness program and documentation BSEE provided to close five of the eight previous recommendations
- Accessed and reviewed the previous Office of Inspector General evaluation file, including documentation supporting the findings and recommendations of Report No. 2017–EAU–043
- Obtained and reviewed applicable laws and regulations
- Identified and reviewed BSEE guidance related to its oil spill preparedness program
- Interviewed BSEE's OSPD personnel about the division's actions to address previous recommendations
- Determined the status of each previously issued recommendation, including whether BSEE's actions met the intent of the recommendation
- Analyzed after-action reports for each of the 38 Government-initiated unannounced exercises the OSPD conducted from October 22, 2018 (the issued date of Report No. 2017–EAU–043), through October 31, 2021, to document results and operator selection justifications

- Identified the universe of 161 equipment verifications (EVs) the OSPD conducted in Alaska, California, Texas, and Louisiana from July 30, 2019 (the date BSEE requested closure of 2017-EAU-043 Recommendation 8), through September 30, 2021
- Judgmentally selected and analyzed a sample of 17 EVs the OSPD conducted in Alaska, California, Texas, and Louisiana from July 30, 2019, through September 30, 2021
- Interviewed personnel from relevant State offices; and reviewed preparedness verification data, including emails and inspection plans, to determine whether the OSPD coordinated with State offices for EVs

Appendix 2: Status of Recommendations From 2018 Evaluation

Recommendation	Closure Requested (Date)	Status	Actions Taken
1. Correct the identified recordkeeping and documentation weaknesses in the GIUE files concerning AARs and operator selection justification.	Yes (10/2018)	Implemented	The OSPD documented all GIUEs we reviewed with AARs, which included operator selection justifications. However, 4 of 38 AARs were not signed within the OSPD-established timeframe of 60 days after exercise date.
2. Develop and implement a GIUE selection strategy to ensure that the rationale for selecting companies to participate in GIUEs is documented and that these companies are tested within an established timeframe.	Yes (07/2019)	Implemented	The OSPD documented selection justifications for all GIUEs we reviewed. The OSPD manual also outlined timeframes and risk factors that would warrant a follow-up GIUE.
3. Work with the various BSEE offices and the U.S. Coast Guard to develop a method that ensures the timely receipt and confirmation of an oil spill notification.	Yes (08/2020)	Implemented	The OSPD worked with the U.S. Coast Guard to develop a procedure for timely spill notifications from the National Response Center. BSEE also issued notices to operators and established related policies.

Recommendation	Closure Requested (Date)	Status	Actions Taken
4. Revise the regulations under 30 C.F.R. § 254 for managing oil spill preparedness and response.	No	Open	The OSPD continued to take steps after July 2018 to advance the proposed changes to 30 C.F.R. § 254. The target completion date is September 2022.
5. Work with the SOL and Congress to resolve outstanding issues involving the OSPD's enforcement authority.	Yes (08/2020)	Implemented	The OSPD worked with the SOL to clarify its enforcement authority under the Clean Water Act. OSPD enforcement authority will also be addressed in the update to 30 C.F.R. § 254.
6. Update and revise the existing agreements between BSEE and State governments for coordinating spill preparedness functions.	No	Open	OSPD updated its agreement with CA and drafted revised agreements with AL, LA, and TX, which are now in the review process. The target date for completion is September 2022.
7. Determine whether agreements with other States (e.g., AL and MS) should be established.	Yes (07/2021)	Implemented	The OSPD determined agreements were not needed for MS and FL. It is working with AL to formalize an agreement.
8. Coordinate inspections of response equipment with States, pursuant to existing agreements.	Yes (07/2019)	Implemented	The OSPD confirmed each State's interest in joint participation in EVs and generally informed States of upcoming EVs in their areas.

Abbreviation list: Equipment verifications = EVs • Oil Spill Preparedness Division = OSPD • Bureau of Safety and Environmental Enforcement = BSEE • Government-initiated unannounced exercise = GIUE • After-action reports = AARs • Office of the Solicitor = SOL • Code of Federal Regulations = C.F.R.

Appendix 3: Response to Draft Report

The Bureau of Safety and Environmental Enforcement's response to our draft report follows on page 22.



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

Memorandum

To: Kathleen R. Sedney
Assistant Inspector General for Audits,
Inspections, and Evaluations

Through: Laura Daniel-Davis
Principal Deputy Assistant Secretary, Land and Minerals Management

LAURA DANIEL-DAVIS
Digitally signed by LAURA DANIEL-DAVIS
Date: 2022.07.08 08:59:19 -04'00'

Kevin M. Sligh
Director

KEVIN SLIGH
Digitally signed by KEVIN SLIGH
Date: 2022.06.30 13:10:34 -04'00'

From: Molly K. Madden
Chief, Office of Policy and Analysis

MOLLY MADDEN
Digitally signed by MOLLY MADDEN
Date: 2022.06.30 07:14:21 -07'00'

Subject: Response to Draft Report titled *The Bureau of Safety and Environmental Enforcement Made Progress in Implementing Corrective Actions to Improve Its Oil Spill Preparedness Program (2022-CR-009)*

The Department of the Interior (DOI) appreciates the Office of Inspector General's (OIG) interest in the Bureau of Safety and Enforcement's (BSEE) Oil Spill Preparedness Program (OSPD). In the draft report referenced above, the OIG made the following recommendations to BSEE:

Recommendation 1: *Finalize and implement Alaska and Pacific regional operating procedures to ensure that personnel are always available to respond to incident of oil spill notifications, in accordance with Bureau Interim Directive 2019-081N.*

Recommendation 2: *Finalize and implement a formal agreement with Alabama to coordinate oil spill preparedness functions.*

Recommendation 3: *Develop, document, and implement a consistent process to coordinate equipment verifications with relevant State offices.*

BSEE concurs with the recommendations and Attachment 1 provides details regarding the corrective actions that BSEE has already completed or plans to take to address these recommendations.

Should you or your staff have any questions concerning this response, please contact Chanielle Williams, BSEE Audit Liaison Officer at [REDACTED]

**The Bureau of Safety and Environmental Enforcement
Made Progress in Implementing Corrective Actions to Improve
Its Oil Spill Preparedness Program (OIG Draft Report No.: 2022-CR-009)**

Recommendation 1: Finalize and implement Alaska and Pacific regional operating procedures to ensure that personnel are always available to respond to incident of oil spill notifications, in accordance with Bureau Interim Directive 2019-081N.

BSEE Response: Concur. The Alaska and Pacific Regions have started the process of developing regional 24-hour response directive supplements, to convey the minimum expectations for employees that are responsible for answering calls to BSEE regional offices both during and after normal operating business hours.

Estimated Completion Date: July 31, 2022

Recommendation 2: Finalize and implement a formal agreement with Alabama to coordinate oil spill preparedness functions.

BSEE Response: Concur. The Oil Spill Preparedness Division (OSPD) is continuing efforts to negotiate a Memorandum of Understanding (MOU) with the State of Alabama Department of Environmental Management (ADEM) that were initiated while addressing Recommendation #7 from OIG evaluation 2017 EAU-043. Negotiations with Alabama have been conducted in conjunction with negotiations to update existing agreements with Alaska, California, Louisiana, and Texas pursuant to Recommendation #6 from 2017 EAU-043. OSPD and Alabama are continuing to fine-tune the draft MOU language. Milestones in the efforts to negotiate an agreement with Alabama are as follows:

- FY2020 Q4 – ADEM agreed to pursue an MOU with BSEE but discussions stalled during FY 2020 Q4 and FY 2021 Q1 due to the State’s need to focus on response and recovery from a series of hurricanes making landfall.
- February 25, 2021 – BSEE, ADEM, and the Alabama Oil and Gas Board (AL O&GB) reengaged on the MOU in FY21 Q2 and met to discuss edits to the agreement.
- May 24, 2021 – ADEM and AL O&GB reviewed the draft MOU through applicable offices within their agencies and provided edits back to BSEE.
- June 9, 2021 – BSEE provided additional edits to ADEM based on recommended edits from the final review of the CA OSPR MOU.
- July 8, 2021 – ADEM provided responses to OSPD edits.
- November 2, 2021 – OSPD submitted additional changes to ADEM. There has been no reply as of June 14, 2022.

Target Date: September 30, 2023

Responsible Official: Eric Miller, Chief, BSEE Oil Spill Preparedness Division

Recommendation 3: Develop, document, and implement a consistent process to coordinate equipment verifications with relevant State offices.

BSEE Response: Concur. On June 13, 2022, OSPD issued a policy memorandum titled “State Notification Procedures for Equipment Verifications” (Attachment 2) that implements this recommendation. The policy provides guidance on state agency notification requirements for equipment verifications (EVs). Analysts are required to notify identified state contacts when planning EV visits and to report results to the contacts. The policy also specificizes documentation requirements. BSEE respectfully requests that this recommendation be considered closed for action.

Date Completed: June 13, 2022

Responsible Official: Eric Miller, Chief, BSEE Oil Spill Preparedness Division

Appendix 4: Status of New Recommendations

Recommendation	Status	Action Required
1, 3	Resolved and implemented	No action is required.
2	Resolved but not implemented	We will refer this recommendation to the Office of Policy, Management and Budget to track implementation.



REPORT FRAUD, WASTE, ABUSE, AND MISMANAGEMENT

The Office of Inspector General (OIG) provides independent oversight and promotes integrity and accountability in the programs and operations of the U.S. Department of the Interior (DOI). One way we achieve this mission is by working with the people who contact us through our hotline.



If you wish to file a complaint about potential fraud, waste, abuse, or mismanagement in the DOI, please visit the OIG's online hotline at www.doioig.gov/hotline or call the OIG hotline's toll-free number: **1-800-424-5081**

Who Can Report?

Anyone with knowledge of potential fraud, waste, abuse, misconduct, or mismanagement involving the DOI should contact the OIG hotline. This includes knowledge of potential misuse involving DOI grants and contracts.

How Does it Help?

Every day, DOI employees and non-employees alike contact the OIG, and the information they share can lead to reviews and investigations that result in accountability and positive change for the DOI, its employees, and the public.

Who Is Protected?

Anyone may request confidentiality. The Privacy Act, the Inspector General Act, and other applicable laws protect complainants. Section 7(b) of the Inspector General Act of 1978 states that the Inspector General shall not disclose the identity of a DOI employee who reports an allegation or provides information without the employee's consent, unless the Inspector General determines that disclosure is unavoidable during the course of the investigation. By law, Federal employees may not take or threaten to take a personnel action because of whistleblowing or the exercise of a lawful appeal, complaint, or grievance right. Non-DOI employees who report allegations may also specifically request confidentiality.