



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

Improvements Needed in the Bureau of Safety and Environmental Enforcement's Procedures Concerning Offshore Venting and Flaring Record Reviews



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MANAGEMENT ADVISORY
OI-OG-19-0577-I

Based on a confidential complaint referred to us by the Bureau of Safety and Environmental Enforcement (BSEE), we investigated allegations that an energy company regularly exceeded venting and flaring limits at multiple offshore production facilities in the Gulf of Mexico while producing natural gas from Federal leases.

We substantiated the allegations and also found that BSEE's annual inspections did not identify information that should have triggered additional scrutiny of the energy company's venting and flaring reporting. As a result, we recommend that BSEE revise its annual facility inspection procedures to detect potentially suspicious and excessive venting and flaring reporting and avoid the loss of Federal royalty revenues.

Background

BSEE inspects and regulates lease operators' offshore production activities, and the Office of Natural Resources Revenue (ONRR) collects and audits the mineral royalties associated with oil and gas produced from Federal offshore leases. As a Federal mineral leaseholder and operator, the energy company must comply with Federal regulations, account for its production of Federal minerals, and calculate and pay the proper amount of mineral royalties to the U.S. Department of the Interior (DOI). Operators must document and maintain venting and flaring records for 6 years (the most recent 2 years to be kept at the facility) and produce them to BSEE, often as part of annual inspections.¹ BSEE inspectors verify that operators' venting and flaring records are up to date and available and perform a limited review of the reported volumes.

Federal regulations limit offshore venting and flaring but allow several exceptions, including limited releases when equipment failures occur and for routine venting and flaring not to exceed 50,000 cubic feet (or 50 MCF) per day on average in a calendar month.² A BSEE regional supervisor or the regional supervisor's authorized designee must approve venting and flaring that does not meet one of the exceptions.³ Gas that is vented or flared from offshore facilities without approval results in a loss of public resources and Federal mineral interests collected by ONRR.

Findings

Based on interviews and our analysis of the energy company's offshore production activities, we selected 6 of the company's approximately 500 offshore facilities and reviewed more than

¹ 30 C.F.R. § 250.1163.

² *Id.* § 250.1160.

³ *Id.*

5 years of daily venting and flaring reports associated with the company's operations. These reports included data that may suggest that the energy company concealed regulatory violations. In particular, these reports raise concerns that the energy company may have manipulated or misreported data in its gas flaring and venting reports pertaining to volume estimates and equipment breakdowns. For example, one facility reported venting 36 MCF of gas each day for a period of nearly 2 years, regardless of the production volumes reported. Such consistency is unlikely because gas amounts would naturally fluctuate along with oil production. In addition, reports for two other facilities where the energy company regularly exceeded the daily average venting and flaring limit of 50 MCF frequently reported general equipment failure as the cause for exceeding the limit. This justification is not specific enough for the BSEE inspector to determine whether the venting and flaring complied with regulations.

We also found that the energy company recorded some flaring as routine vent or routine flare, even though the daily average exceeded the regulatory limit of 50 MCF and an authorized BSEE designee had not approved an exception.

Finally, we found that venting and flaring reports associated with another facility recounted multiple instances in which equipment failures had identical downtime durations and discharge volumes even though different equipment was involved or different types of equipment failure had occurred. While certain facilities are allowed to estimate venting and flaring volumes, it is unlikely that different equipment failures would result in identical downtime durations.

We determined that over approximately 5 years, the energy company's venting and flaring activities exceeded regulatory limits without the required approvals, resulting in a loss of Federal mineral royalties and resources. More specifically, we identified approximately 229,066 MCF of vented and flared natural gas as suspicious or exceeding the allowable amount across four platforms in the Gulf of Mexico between January 2014 and April 2020. We presented our findings to ONRR, which assisted us in analyzing the energy company's venting and flaring activities and determining the amount of lost Federal mineral royalties. Based on this analysis, ONRR submitted and secured a proof of claim in the amount of \$712,857.82 for unpaid mineral royalties during the energy company's bankruptcy proceeding.

When we presented our findings to BSEE, officials agreed that the venting and flaring activities were suspicious and warranted administrative action.

BSEE officials also reported that similar venting and flaring activities are not always identified during BSEE's annual inspections. BSEE annual inspection policies require inspectors to verify that operators maintain venting and flaring records at the facility, and a relatively recent directive requires BSEE inspectors to calculate the average daily venting and flaring.⁴ However, without additional action, these policies and procedures are not sufficient to identify the type of activity found in this investigation. In addition, ONRR reporting regulations and guidance do not require offshore lease operators to provide enough information for ONRR staff to detect this type of activity.

⁴ Directive Supplement No. 658.04, July 2021.

Recommendations

Changes to BSEE's oversight and annual inspection of offshore facilities may help identify excessive gas venting and flaring activities and avoid the potential loss of Federal mineral royalties, thus improving BSEE's oversight and the U.S. Government's ability to enforce regulations. In addition to ensuring compliance with the requirements to report certain matters to the Office of Inspector General (see Attachment 1 for *OIG Guidance for Investigative Referrals From Departmental Offices and Bureaus*, issued October 4, 2021), we recommend that BSEE:

1. Revise its annual facility inspection procedures to require inspectors to examine venting and flaring reports for patterns that may reflect regulatory or statutory violations or amounts that exceed permissible limits.
2. Develop a documented process to coordinate with ONRR if violations are detected to ensure that ONRR receives the royalties owed for improperly vented or flared natural gas.

BSEE Response Summary and Office of Inspector General Reply

We provided BSEE with a draft of this management advisory for its review and comment. BSEE concurred with both recommendations and stated that it will work to implement them. The full text of BSEE's response to the recommendations is included as Attachment 2. We also revised the final report as appropriate to reflect technical edits BSEE provided separately.

Recommendation 1: Regarding the annual facility inspections, BSEE stated that it intends to develop standard procedures that “identify clear violations as well as suspicious patterns” in venting and flaring records. In addition, BSEE stated that it will create and implement training for BSEE inspectors and engineers “who are authorized to approve flaring/venting requests.” BSEE stated that this training will “include instruction on finding potential violations similar to those identified by OIG.”

Recommendation 2: Regarding coordination with ONRR, BSEE stated that it will develop and implement a standard operating procedure for determining if identified violations “should result in the collection of Federal royalties,” and, if so, “notifying the appropriate parties, including ONRR.”

Based on BSEE's response, we consider the recommendations resolved but not implemented. The recommendations will remain open until we determine that sufficient corrective actions have been taken to warrant closure. BSEE has targeted an implementation date of April 30, 2023, for corrective action. We will continue to monitor BSEE's planned corrective actions until they have been fully implemented.

Attachments (2)



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

Memorandum

OCT 04 2021

To: Tommy Beaudreau
Deputy Secretary

Lawrence Roberts
Chief of Staff

From: Mark Lee Greenblatt
Inspector General

Subject: OIG Guidance for Investigative Referrals From Departmental Offices and Bureaus

In accordance with the Inspector General Act of 1978, as amended (IG Act), the Office of Inspector General (OIG) is responsible for conducting and coordinating investigations concerning allegations of fraud, waste, abuse, or mismanagement related to U.S. Department of the Interior (DOI) programs and operations, including serious matters capable of compromising the DOI's mission or otherwise threatening the integrity of its programs (5 U.S.C. App. 3 § 2; *see also* 355 DM 2). In particular, the OIG is responsible for conducting and supervising "investigations relating to the programs and operations" of the establishment (5 U.S.C. App. 3 § 2). Accordingly, activities that may implicate the OIG's oversight role are commensurate with the DOI's own expansive portfolio, including, for example, the DOI's obligations to manage public lands and resources; conduct law enforcement operations to protect Government assets, personnel, and the public; regulate energy and mineral companies operating in areas under Federal jurisdiction; and fulfill its public trust responsibilities to Native Americans.

Under the IG Act, the OIG exercises its authority to independently and proactively address fraud risks and investigate complaints and allegations received from a variety of sources, including DOI employees, contractors, and the public (5 U.S.C. App. 3 §§ 2, 7). Departmental referrals of suspected fraud, waste, and mismanagement are critical to protecting the DOI's programs and assets, holding violators accountable, preventing and recovering damages, and ensuring efficient and effective Government operations on behalf of the American public.

The OIG has historically worked productively with the DOI to ensure that these matters receive the appropriate attention. In support of our joint interest in ensuring that potential concerns are promptly identified and addressed, we are providing the following information and guidance to facilitate the internal referral process.

The OIG's Office of Investigations (OI) consists of several components that conduct criminal, civil, and administrative investigations. The attachment to this memorandum provides

additional detail regarding each component’s area of responsibility or focus, but, as a general matter, OI reserves the right of first refusal to investigate complaints that fall within its primary jurisdiction, namely, integrity matters and those that pertain to potential fraud, waste, abuse, or mismanagement (355 DM 2 at 2.4(B)). Integrity matters concern “[a]llegations of serious matters which could compromise the Department’s mission, receive public attention, or threaten the integrity of DOI programs” (355 DM 2 at 2.4(B)(1)).¹ Investigation matters that are uniquely within the OIG’s jurisdiction include those “that give the appearance of fraud, waste, abuse, or mismanagement in Departmental programs and operations” (355 DM 2 at 2.4(B)(2)), including “actual or suspected criminal activity or other wrongdoing by Departmental employees, contractors, grantees, lessees, or any other persons doing business with the [DOI]” (110 DM 4 at (4.6)(D); *see also* 5 U.S.C. App. 3 § 7(a)).² Referral of any matters within the OIG’s primary jurisdiction “should be made within 48 hours of discovery” (355 DM 2 at 2.4(A)). If the OIG declines to initiate an investigation, it will remand the matter to the appropriate bureau or office for action.

“Assistant Secretaries and heads of bureaus and offices are responsible for ensuring that procedures exist within their organization for immediate reporting to the Inspector General” (355 DM 1 at 1.3(C)). To ensure effective internal referral processes, we suggest that bureau and office directors provide this memorandum to all managers and confirm that policies and directions are consistent with this guidance.

Allegations should be reported to the OIG by submitting relevant information to doioigreferrals@doioig.gov.

Thank you for your cooperation and for reinforcing our shared commitment to ensuring that the DOI and its personnel maintain the highest standards of integrity and accountability. If you have any questions or would like to discuss any aspect of this memorandum, please contact me, or your staff may contact Matthew Elliott, Assistant Inspector General for Investigations, at 202-208-5745.

cc: BIA Director ONRR Director
 BIE Director OSMRE Director
 BLM Director OST Director
 BOEM Director Solicitor
 BOR Director USGS Director
 BSEE Director
 FWS Director
 NPS Director

Attachment

¹ We note that, although the DM refers to the “Program Integrity Division,” this component has since been renamed “Special Investigations and Reviews.”

² Certain other matters should be referred to outside legal authorities or are generally handled administratively. *See* 355 DM 2 at 2.4(B)(3)-(5).

Attachment: Relevant Components of the OIG Office of Investigations

Although the Office of Inspector General (OIG) retains discretion to determine which component will investigate or review specific allegations, particular components have special expertise in different areas. These components are summarized below.

Special Investigations and Reviews (SIR) investigates allegations of misconduct and wrongdoing that involve senior-level U.S. Department of the Interior (DOI) officials or law enforcement officers and personnel. SIR also conducts investigations and reviews of matters of Congressional or particular public interest. SIR has responsibility for allegations:

- Against senior DOI personnel at the GS-15 level and above involving—
 - Gross misconduct or criminal conduct
 - Ethical misconduct
 - Whistleblower retaliation or reprisal
- Of criminal conduct by DOI law enforcement personnel, including excessive use of force
- Against DOI law enforcement personnel that meet the definition of an integrity or investigative matter as defined in 355 DM 2

The Energy Investigations Unit (EIU) investigates suspected violations and allegations that affect the DOI's energy and mineral programs, including the leasing, permitting, extraction, production, development, and/or sale of mineral or energy-related resources from areas under Federal jurisdiction. The EIU has responsibility for allegations relating to:

- Submission of false or misleading information to the DOI and/or the falsification of documents or records required to be maintained by a lessee, operator, or royalty payor
- Falsification of tests, inspections, maintenance records, or equipment records by any entity (individual or business) conducting operations related to mines and mineral leases (including geothermal leases) under Federal jurisdiction
- Theft or failure to account for or properly value mineral production and/or pay the proper amount of royalties or public revenues related to mines or mineral leases under Federal jurisdiction (including unauthorized gas flaring or venting)
- Mineral theft or diversion and/or the removal of minerals under Federal jurisdiction without a lease or proper authority (including leasable, salable, or locatable minerals)
- Manipulation or alteration of equipment associated with mines or mineral leases that result in violations of Government regulations or have the effect of deceiving Federal regulators

- Intentional or negligent discharge of hydrocarbons or waste materials that caused a pollution event affecting waters or lands under Federal jurisdiction
- Submission of false or misleading safety or environmental reports and improperly operating safety systems, facilities, or equipment related to Federal leases, permits, and/or rights of way

Regional offices consist of Eastern Investigations (EI) and Western Investigations (WI), both of which investigate a variety of violations that fall within the OIG's broad jurisdiction. EI and WI have responsibility for allegations of:

- Fraud, waste, abuse, or mismanagement resulting in financial loss, including theft of Government property
- Criminal conduct by DOI employees at the GS-14 level and below
- Misconduct by DOI personnel with access to or responsibility for moneys or financial systems
- Contractors, grantees, or any other entities doing business with, making payments to, or receiving funds from the DOI
- Potential criminal acts involving the DOI's use of information technology, including computer networks, systems, or equipment
- Allegations or complaints that meet the definition of an integrity or investigative matter as defined in 355 DM 2 that are not assigned to another component



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

April 21, 2022

Mr. Matthew Elliot
Assistant Inspector General for Investigations
Office of Inspector General, Office of Investigations
U.S. Department of the Interior
Washington, DC

Dear Mr. Elliot,

Thank you for the opportunity to review and comment on the Office of Inspector General (OIG) draft report entitled, *Improvements Needed in the Bureau of Safety and Environmental Enforcement's Procedures Concerning Offshore Venting and Flaring Record Reviews* (Case No. OI-OG-19-0577-I). The OIG draft report includes two recommendations for the Bureau of Safety and Environmental Enforcement (BSEE) to improve BSEE's oversight and the U.S. Government's ability to enforce regulations.

BSEE concurs with both recommendations and plans to implement them by April 30, 2023. Responses to each recommendation are provided in the Enclosure. In addition, for your consideration, technical comments are being provided in a separate correspondence.

As the U.S. Government Accountability Office reported in 2004, the Federal offshore flaring and venting record is already among the best in the world. Implementing these OIG recommendations will serve to further strengthen that record. BSEE is committed to continued management of flaring and venting from Federal offshore oil and gas leases to the extent of our authority and strives to improve our programs to remain a world leader in the oversight of flaring and venting.

We appreciate your suggestions for improving the regulatory oversight of Federal oil and gas. If you have any questions, please contact Scott Mabry, Acting Deputy Director at [REDACTED].

Sincerely,



Kevin M. Sligh
Director

Enclosure

Bureau of Safety and Environmental Enforcement (BSEE) Response to Office of Inspector General (OIG) draft report: *Improvements Needed in the Bureau of Safety and Environmental Enforcement's Procedures Concerning Offshore Venting and Flaring Record Reviews* (Case No. OI-OG-19-0577-I)

To help BSEE identify any excessive gas venting and flaring activities and avoid the potential loss of Federal mineral royalties, thus improving BSEE's oversight and the U.S. Government's ability to enforce regulations, the OIG recommended that BSEE implement the two following recommendations:

Recommendation 1: *OIG recommends that BSEE revise its annual facility inspection procedures to require inspectors to examine flaring reports for patterns that may reflect regulatory or statutory violations or amounts that exceed permissible limits.*

BSEE Response: BSEE concurs with this recommendation and will develop inspection procedures that identify clear violations as well as suspicious patterns on flare/vent records like those discovered by OIG. BSEE will also develop specific training regarding the inspection of flare/vent records, which will include instruction on finding potential violations similar to those identified by OIG. That training will then be given to BSEE inspectors as well as BSEE engineers who are authorized to approve flaring/venting requests.

Recommendation 2: *OIG recommends that BSEE develop a documented process to coordinate with ONRR if violations are detected to ensure that ONRR receives the royalties owed for improperly vented or flared natural gas.*

BSEE Response: BSEE concurs with this recommendation and will create a Standard Operating Procedure that clearly lays out the procedure for determining whether flaring/venting violations should result in the collection of federal royalties on the flared/vented volumes and, if so, notifying the appropriate parties, including ONRR.

Enclosure



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.

Am I protected?

Complainants 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.