



Department of the Interior (DOI) Reorganization of Ocean Energy Programs

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Summary

On June 28, 2012, the Department of the Interior (DOI) submitted to Congress the Proposed Final Five-Year Outer Continental Shelf Leasing Program for 2012-2017, a forward-looking schedule for ocean energy development mandated by the Outer Continental Shelf Lands Act (OCSLA, 43 U.S.C. 1331). This DOI submission to Congress marks the first substantive demonstration of the department's new institutional structure since the Obama Administration overhauled the regulatory framework for managing ocean energy resources in 2010.

DOI institutional reforms, among other responses to the Gulf of Mexico oil spill of 2010, were aimed at correcting perceived shortcomings within DOI by strengthening federal regulatory policies toward drilling safety and environmental protection. The reforms within DOI took effect on October 1, 2012, creating three DOI agencies:

- (1) Office of Natural Resources Revenue (ONRR, pronounced "*Honor*"), tasked with managing revenue owed to the government for the use of the public domain for energy and mineral development.
- (2) Bureau of Ocean Energy Management (BOEM, rhymes with "*Rome*"), tasked with offshore leasing administration and environmental and economic analysis.
- (3) Bureau of Safety and Environmental Enforcement (BSEE, pronounced "*Bessy*"), tasked with oversight and enforcement for field operations, inspections, workforce safety, and decommissioning.

Because ONRR, BOEM, and BSEE were not created by statute, statutory changes were not needed as part of the DOI reorganization. Legislative action during the first session of the 112th Congress included House and Senate hearings, first to oversee DOI permitting for offshore drilling operations and then to examine proposed legislation aimed at codifying agency reorganization (H.R. 3404, S. 917). H.R. 3404 was ordered to be reported by the House Committee Natural Resources on November 17, 2011. The Senate Committee on Energy and Natural Resources held hearings on S. 917 (S.Hrg. 112–51). No further legislative action on these bills has been scheduled.

Stakeholders (energy companies, developers, and state officials engaged in coastal and marine development) expressed uncertainty prior to the 2010 reorganization about whether, during the transition to the new system, DOI permitting for offshore operations would stay on track or be disrupted. Major disruptions stemming from the reorganization have not materialized, but some uncertainty about the workings of the new agencies remains a concern for some stakeholders in the aftermath of the reorganization. The Government Accountability Office (GAO) has undertaken a study to measure DOI performance since the 2010 reorganization and is expected to provide a report to Congress in 2013.

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Introduction

The Department of the Interior (DOI) manages ocean energy and mineral resources, including oil, natural gas, wind, and geothermal resources.¹ Federally regulated offshore oil and gas projects currently account for 26% of the nation's domestic oil production and about 16% of domestic natural gas production. In addition to generating these domestic energy supplies, federally regulated offshore energy projects account for significant public receipts, including approximately \$6.5 billion in 2011.²

The institutional framework within DOI for regulating offshore drilling projects changed in many ways after the April 20, 2010, explosion and fire on the *Deepwater Horizon* drilling rig in the Gulf of Mexico.³ At the time of the spill, the lead agency within DOI responsible for regulating offshore drilling was the Minerals Management Service (MMS). The national response to the spill drew attention to risks that accompany deepwater drilling and prompted scrutiny of federal regulators charged with enforcing requirements for operational safety. As the *Deepwater Horizon* events unfolded during the summer of 2010, some Members of Congress questioned whether perceived shortcomings in regulating drilling operations might have played a role in the catastrophe.

Prompted by increased public interest and questions from Members of Congress, Interior Secretary Ken Salazar expressed the view that the regulatory structure (among other factors) was a weakness in the offshore program, and Administration officials moved swiftly to dismantle MMS. Secretary Salazar claimed that numerous structural and substantive reforms would be necessary to improve energy operations, worker safety, and environmental protection in U.S. waters. From May 2010 through October 2011, such reforms started to take effect, changing DOI regulatory policies that had been in place since 1982 and replacing them with new policies toward regulating offshore energy activities.⁴

By June 28, 2012, when DOI submitted to Congress the Proposed Final Five-Year Leasing Program for 2012-2017 (a forward-looking schedule for ocean energy development mandated by the OCSLA), the submission marked the first substantive demonstration of the department's new institutional structure since the Obama Administration overhauled the regulatory framework.

¹ Numerous statutes and regulations govern activities in U.S. waters, a federal area covering 1.7 billion acres beyond state waters. The statutory basis for DOI managing ocean energy resources is mostly derived from the Outer Continental Shelf Lands Act (OCSLA, 43 U.S.C. 1331, et. seq.) and the Energy Policy Act of 2005 (P.L. 109-58).

² Statistics about annual energy supplies and annual receipts from bonus bids, rentals, and royalties are published through numerous sources. The statistics in this report are derived from the Office of Natural Resources Revenue within DOI, at <http://www.ONRR.gov>.

³ The *Deepwater Horizon* events resulted in 11 worker fatalities, a massive oil release, and a national response effort in the Gulf of Mexico led by the federal government. Based on estimates from the U.S. Geological Survey, the oil spill was the largest in U.S. waters.

⁴ 76 *Federal Register* 64432 (October 18, 2011). Bureau of Safety and Environmental Enforcement, 30 CFR Chapter II; Bureau of Ocean Energy Management, 30 CFR Chapter V. This rule took effect October 1, 2011.

Policy Review: DOI Reorganization of 2010

As a part of its response to the Gulf oil spill of 2010, the Department of the Interior initially ordered an internal investigation into the cause of the spill.⁵ In the course of the investigation, Secretary Salazar announced, among other findings, that the regulatory structure underpinning MMS management was inadequate. This was not the first time MMS management had been called into question. Prior to the *Deepwater Horizon* events, allegations of mismanagement had prompted lawmakers to look into the strengths and weaknesses of MMS performance on numerous occasions.⁶

Less than a month after the accident that caused the spill, Secretary Salazar abolished MMS and established a new organizational structure.⁷ This administrative action (removing MMS and re-delegating its functions to new agencies) marked the start of the reorganization that would result in a new regulatory structure for the offshore energy program, composed of three agencies, with regulatory responsibilities being divided (or shared in some cases) across the new bureaucracy. Changing the name of the lead agency and separating MMS responsibilities between new agencies was accomplished by shifting some MMS responsibilities to the newly created Office of Natural Resources Revenue (ONRR) and other MMS responsibilities to a transitional agency called the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE). ONRR was charged with managing revenues from all DOI programs (onshore, offshore, and on Indian lands). BOEMRE responsibilities included both operational oversight (field inspections and workforce safety) and leasing administration (planning for five-year program goals, conducting lease sales, and environmental and economic analysis required by the National Environmental Policy Act).⁸

A second and final secretarial directive marked the completion of the reorganization—BOEMRE was phased out and replaced by the institutional structure currently in place.⁹ Specifically, on October 1, 2011, BOEMRE was replaced by two new agencies: the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE).¹⁰ BOEM is currently responsible for planning and managing lease sales and conducting related environmental and economic assessments, such as evaluating potential ocean energy resources and addressing NEPA requirements. BSEE is currently responsible for regulating operations such as permitting for drilling and decommissioning, equipment and facility inspections, and workforce safety.

⁵ DOI, *Increased Safety Measures for Energy Development on the Outer Continental Shelf; Executive Summary*, May 27, 2010.

⁶ Investigations of the past focused on MMS revenue management functions and involved auditing MMS records related to receipts and disbursements. See U.S. Government Accountability Office, *The Federal System for Collecting Oil and Gas Revenues Needs Comprehensive Reassessment*, GAO-08-691, September 2008. See also DOI, Office of Inspector General, *Investigative Report: MMS Oil Marketing Group—Lakewood, Washington, DC*, August 19, 2008. In 2009, new ethics standards and the elimination of the Royalty-in-Kind Program were changes that stemmed from a series of internal investigations.

⁷ DOI Secretarial Order No. 3299, May 19, 2010.

⁸ National Environmental Policy Act (NEPA, 42 U.S.C. 4321).

⁹ DOI Secretarial Order No. 3302, June 18, 2010.

¹⁰ DOI Fact Sheet: BSEE and BOEM, at <http://www.boem.gov>.

Secretary Salazar and others had expressed the goal of achieving a swift transition and having the new structure in place as quickly as possible.¹¹ By October 1, 2011, after less than a two-year transitional period, the new federal agencies responsible for offshore energy resources began functioning through an administrative order establishing the new regulatory system.¹²

Questions and Answers

What Prompted the Reorganization?

The reorganization was prompted by widespread questions about the adequacy of federal regulation of offshore drilling after the April 20, 2010, *Deepwater Horizon* oil spill. Because the Minerals Management Service (MMS) within the Department of the Interior (DOI) was the lead agency responsible for permitting offshore oil and gas drilling, public attention turned to MMS performance related to safety and enforcement. As the events of the *Deepwater Horizon* unfolded, public focus on MMS performance intensified. Some in Congress raised concerns about perceived shortcomings and conflicts of interest that had been examined in the past with respect to previously identified management challenges within MMS.

Secretary Salazar ordered the administrative reorganization to address these perceived conflicts. As part of this reorganization, MMS responsibilities were separated and re-delegated to three new agencies, signaling a break from past regulatory practices perceived by some, but not all, as being too lax. By separating and re-assigning MMS responsibilities, Secretary Salazar's actions were intended to eliminate competing interests within MMS that the Secretary stated interfered with properly regulating offshore projects.

What Regulatory Structure Existed Prior to the Reorganization?

Prior to April 2010, offshore energy projects were regulated by the Minerals Management Service (MMS), an agency within DOI. MMS was formed in 1982 by administrative order to regulate offshore energy development that had previously been among the responsibilities of the Conservation Division of the U.S. Geological Survey.¹³ After 1982, three main responsibilities were delegated to MMS: regulating offshore energy operations, administering leases, and managing receipts and disbursements from all energy projects regulated by DOI (onshore, offshore, and on Indian lands). In 2010, MMS was made up of about 1,700 employees in 20 locations across the country.¹⁴

Secretary Salazar's comments at the time he directed the 2010 dissolution of MMS draw a distinction between the structure in place from 1982 through 2010 (the former MMS) and the structure currently in place: "The Minerals Management Service had three distinct and conflicting missions that—for the benefit of effective enforcement, energy development, and revenue

¹¹ U.S. Department of the Interior, "Secretary Salazar Divides MMS Missions," transcript of videotaped announcement, May 19, 2010, available at <http://www.doi.gov/news/video/Secretary-Salazar-Divides-MMS-Missions.cfm>.

¹² 76 *Federal Register* 64432 (October 18, 2011). This rule took effect October 1, 2011.

¹³ DOI Secretarial Order No. 3071, January 19, 1982. As part of separating offshore and onshore regulatory authority, offshore areas were removed from the responsibility of the U.S. Geological Survey and delegated to MMS.

¹⁴ DOI, *Minerals Management Overview*, 2009. See <http://www.boemre.gov/jobs/Assets/PDF/MMSOverview.pdf>.

collection—must be divided.”¹⁵ DOI responsibilities for regulating offshore energy projects have been characterized many times over the years, usually highlighting both enforcement objectives (as the custodian of the public domain) and offshore energy and public revenue objectives (as the administrator for offshore energy production).¹⁶ From this perspective, various regulatory functions can be seen as distinct and conflicting. Many, but not all, observers have expressed agreement that discretionary decision-making under the old framework (consisting of one agency, MMS) might have led to management issues such as favoring one DOI function over another.¹⁷

What Is the Role of the Office of Natural Resources Revenue (ONRR)?

The Office of Natural Resources Revenue (ONRR, pronounced “*Honor*”) became a new agency on October 1, 2010. ONRR is responsible for managing public revenues from federally regulated energy projects, including projects that are onshore, offshore, and on Indian lands. These responsibilities were previously performed by MMS. ONRR collects revenues accounting for approximately \$10 billion in annual receipts and disburses revenues to numerous accounts, including accounts within five federal agencies, the U.S. Treasury, and 38 states.¹⁸

Revenue from federal offshore energy projects accounts for a significant portion of the total revenues managed by ONRR. Receipts from offshore projects accounted for approximately \$6.5 billion in 2011. In the course of collecting payments from leaseholders (mostly energy companies and developers), ONRR administers payment schedules associated with more than 7,000 offshore energy and mineral leases. (Among a total of more than 62,000 federal leases, the majority are administered by the Bureau of Land Management.) Furthermore, ONRR disburses public revenue by allocating sums, as determined by federal statute, to numerous federal and state accounts, including the Land and Water Conservation Fund,¹⁹ the Historic Preservation Fund,²⁰ various state accounts,²¹ and the General Treasury.

¹⁵ U.S. Department of the Interior, “Secretary Salazar Divides MMS Missions,” transcript of videotaped announcement, May 19, 2010, available at <http://www.doi.gov/news/video/Secretary-Salazar-Divides-MMS-Missions.cfm>.

¹⁶ DOI’s mission statement is posted at <http://www.doi.gov> as follows: Protecting America’s great outdoors and powering our future, the U.S. Department of the Interior protects America’s natural resources and heritage, honors our cultures and tribal communities, and supplies the energy to power our future.

¹⁷ GAO has summarized its recent work in this area in *Oil and Gas Management: Past Work Offers Insights to Consider in Restructuring Interior’s Oversight*, GAO-10-888T, July 22, 2010.

¹⁸ See all disbursements at <http://www.onrr.gov/stats>.

¹⁹ For the Land and Water Conservation Fund (P.L. 88-578, 16 U.S.C. §§4601-4, et seq.), up to \$900 million annually. See CRS Report RL33531, *Land and Water Conservation Fund: Overview, Funding History, and Issues*, by Carol Hardy Vincent.

²⁰ National Historic Preservation Act (P.L. 89-665, 16 U.S.C. §§470, et seq.) This fund is authorized to receive \$150 million annually from receipts derived from offshore leases. Expenditures require an annual appropriation.

²¹ Numerous payments are made to states: OCSLA Amendments of 1985 (P.L. 99-272) allocates 27% of receipts from certain areas as permanently appropriated to the states; Gulf of Mexico Energy Security Act (GOMESA) of 2006, P.L. 109-432) allocates 12.5% of receipts from specified federal oil and gas leases off the coasts of selected Gulf states is permanently appropriated to the National Park Service to be used consistent with the stateside program under the LWCF act. Furthermore under GOMESA 37.5% of receipts from specified federal oil and gas leases go to Alabama, Louisiana, Mississippi, and Texas. Lastly, the Energy Policy Act of 2005 (P.L. 109-58, §384) through the Coastal Impact Assistance Program (CIAP) allocated to certain states \$250 million of annual spending for FY2007-FY2010. Distributions into the CIAP account ended in FY2010; however, program activities such as grant awards and monitoring are expected to continue for several years.

ONRR Mission Statement

To ensure the full and fair return to the American people of federal and Indian royalties and other monies owed for the utilization of public resources in the production of conventional and renewable energy and mineral resources.

The following are selected examples of ONRR responsibilities:

- Collecting receipts from companies paying on obligations such as bonus bids, rent, royalties, and fees; maintaining account databases for payment schedules and other records; verifying accounts; and distributing receipts as directed by statute.
- Auditing accounts according to government auditing standards.
- Enforcing revenue obligations by issuing penalties for late payments, and resolving payment disputes.

ONRR has offices in Colorado, Texas, Oklahoma, and New Mexico, and a headquarters office in Washington, DC.

What Is the Role of the Bureau of Safety and Environmental Enforcement (BSEE)?

The Bureau of Safety and Environmental Enforcement (BSEE, pronounced “*Bessy*”) was established on October 1, 2011, partly replacing the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE). BSEE is mainly responsible for operational safety and workforce training. Regulatory functions delegated to BSEE include permitting drilling, construction, and decommissioning activities; inspecting equipment and facilities; developing and enforcing safety regulations and standards; reviewing oil spill response plans; and operating a national training center for federal inspectors.

BSEE Mission Statement

BSEE works to promote safety, protect the environment, and conserve resources through vigorous regulatory oversight and enforcement.

Selected examples of BSEE responsibilities include the following:

- Establishing a National Training Center designed to keep federal inspectors current on new technologies and processes.
- Implementing new safety standards for offshore oil and gas facilities, particularly focusing on deepwater operations.
- Overseeing worker safety to address risks associated with human exposure to ocean conditions such as high winds, ice, fog, and extreme temperatures.

BSEE has offices (co-located with BOEM) in Anchorage, AK; New Orleans, LA; and Camarilla, CA; and a headquarters office in Washington, DC. BSEE offices near federally regulated ocean

energy facilities provide regulatory support for offshore operations such as geological and geophysical analysis of ocean energy resources prior to exploration and development.

What Is the Role of the Bureau of Ocean Energy Management (BOEM)?

The Bureau of Ocean Energy Management (BOEM, pronounced “*Bome*,” rhymes with *Rome*) was established on October 1, 2011, to partly replace the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE). BOEM is responsible for the offshore leasing process, which means managing leases from the time the government conveys leases through the public lease sale process until the leases are relinquished back to the government. BOEM performs the following activities: developing a five-year program of proposed lease sales;²² qualifying bidders prior to a lease sale;²³ conducting public lease sales;²⁴ issuing leases to winning bidders; and record-keeping associated with changes in the status of a lease due to new circumstances such as new ownership.²⁵ Throughout these regulatory actions, BOEM provides environmental analysis consistent with the requirements of the National Environmental Policy Act (NEPA).²⁶

Selected examples of BOEM responsibilities include the following:

- Conducting Gulf of Mexico lease sales in December 2011²⁷ and June 2012.²⁸
- Submitting to Congress on June 28, 2012, the Five-Year Outer Continental Shelf Oil and Gas Leasing Program (2012-2017) outlining a proposal for ocean energy development during the five-year period from 2012 through 2017.²⁹
- Planning offshore wind projects through a program entitled *Smart from the Start*, with permitting and operations anticipated to begin by 2013.

BOEM Mission Statement

BOEM manages the development of the nation’s offshore resources in an environmentally and economically responsible way.

²² The five-year program is mandated by the OCSLA to be “a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which ... will best meet national energy needs.” 43 U.S.C. §1344(a).

²³ This involves reviewing leaseholder qualifications such as a company’s technical capacity for ocean drilling and a company’s financial capacity for meeting the potential costs of an oil spill. The statutory basis for most oil spill-related responsibilities is derived from the Oil Pollution Act (33 U.S.C §2701).

²⁴ The lease sale process is a public event, open to all companies deemed eligible for owning offshore leases.

²⁵ After a lease sale, the status of a lease can change. Private transactions play a role in determining how and when a lease might be assigned or reassigned prior to expiring and being relinquished back to the government.

²⁶ National Environmental Policy Act (NEPA, 42 U.S.C. 4321).

²⁷ 76 *Federal Register* 70473 (November 14, 2011). Western Planning Area Oil and Gas Lease Sale 218 held December 14, 2011, offered 21 million acres for lease and drew about \$325 million in bids.

²⁸ 77 *Federal Register* 29683 (May 18, 2012). Central Planning Area Oil and Gas Lease Sale 216/22 held June 20, 2012, offered million acres for lease and drew about \$1.7 billion in bids, making it the fourth highest sale in the history of the Gulf of Mexico.

²⁹ The previous five-year program expired on June 30, 2012. The program proposed on June 28, 2012, is expected to take effect by August 2012.

BOEM has offices (co-located with BSEE) in Anchorage, AK; New Orleans, LA; and Camarilla, CA; and a headquarters office in Washington, DC. BOEM regional offices provide support for state and local consultations about leasing obligations and a local repository for public records about development rights for specific leased tracts (similar to a county land register).

What Appears to Have Changed as a Result of the Reorganization?

Institutional changes stemming from the reorganization include new directors being named for each of the three new agencies.³⁰ Also, each agency now maintains a separate budget and a separate congressional affairs office. Further changes are indicated by each agency adopting a distinct mission statement.

Changes stemming from the reorganization are still evolving. Some changes in agency workflow are apparent in the way monthly offshore oil and gas production reporting is currently accomplished compared to the way it was done prior to the reorganization. Specifically, ONRR and BSEE administrative procedures differ from MMS procedures in place prior to the reorganization. Prior to the reorganization, all production reporting was the responsibility of MMS. Under the MMS system, operators provided reports about production from offshore oil and gas projects to MMS and all the administrative functions related to production reports were handled within MMS. Since the reorganization, operators report production volumes to ONRR. ONRR provides BSEE with monthly production updates. BSEE is responsible for verifying the production volumes reported to ONRR. The BSEE verification process involves field work and local monitoring that results in BSEE publishing offshore oil and gas production volumes on the BSEE website.³¹ As part of the reorganization, steps for cross-checking production volume reporting were added to the previous system for reporting—BSEE field data are now correlated with ONRR accounting data. This change is aimed at improving the accuracy of DOI reports and building greater confidence in DOI systems for reporting in general.

Not all agency tasks were targeted for change as part of the reorganization. For example, agency workflow associated with managing leased tracts (mapping the location of leased tracts, issuing owner and operator bonds, and administrative responsibilities related to recordkeeping) appear largely unchanged as a result of the 2010 institutional reforms. Arguably, regulatory policies on administering ownership records for leases (issuing new leases and approving assignments for existing leases) have not been affected by the reorganization. In 2011, performing a long-standing process for conveying leases after a sale, BOEM issued 181 new leases and reported no difference in the process before and after the reorganization.³² BOEM continued a long-standing process for reviewing leaseholder applications for assigning ownership interests in existing leases; in 2011 BOEM approved 789 lease assignments and reported no difference in the process

³⁰ MMS Director Elizabeth Birnbaum resigned in May 2010, and by June 2010, Michael R. Bromwich was appointed as the Director of the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE). Currently three directors are in place: BOEM Director Tommy Beaudreau; BSEE Director James Watson; and ONRR Director Gregory J. Gould.

³¹ BSEE production statistics form the basis of information available to the public, including Members of Congress, developers, energy analysts, and others. ONRR can obtain BSEE production data for its compliance review activities and audits.

³² This information reflects BOEM public notices issued for Lease Sale 218 on December 14, 2011, and Lease Sale 216/22 on June 20, 2012.

before and after the reorganization.³³ Continuity with respect to these policies (administration of new and existing leases) can be a significant component of the leasing process from the perspective of companies making operational and financial decisions about an ocean energy project. Continuity (or disruptions) in agency workflow involving new and existing leases can be a pivotal factor for making decisions related to financing a project, ordering equipment, and hiring a workforce.

The Role of Congress

In 2010, just as in 1982 when MMS was established administratively, Secretary Salazar ordered MMS abolished and replaced by new agencies without congressional action.³⁴

In the absence of organic legislation (ONRR, BSEE, and BOEM were not created in statute), decisions to delegate or re-delegate MMS responsibilities within DOI require no congressional action. Arguably, any number of administrative decisions could lead to further delegations of DOI agency responsibilities, all potentially unfolding outside of the legislative process. At issue for Congress is whether, absent legislative action, administrative directives are the best mechanism for resolving perceived management issues within DOI offshore programs. If Congress determines that such administrative changes are not the best course, the question remains what legislative action, if any, provides a better alternative?

What Legislative Action Accompanied the Reorganization?

Congress mainly addressed DOI structural organization as part of enacting DOI appropriations measures.³⁵ Starting in the 111th Congress, prompted partly by Secretary Salazar's requests that the administration's structural changes be codified into law, some Members of Congress examined legislative proposals for a new regulatory framework within DOI as part of a broad legislative response to the *Deepwater Horizon* spill.³⁶ Other than DOI appropriations acts funding new DOI agencies, no legislation has been enacted to facilitate the reorganization.

During the first session of the 112th Congress, the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources held hearings addressing the 2010 reorganization.³⁷ During these hearings, lawmakers questioned Interior Secretary Ken Salazar and

³³ According to BOEM Congressional Affairs Office, BOEM approved the following lease assignments during 2011: 285 applications for assignments involving 100% ownership interest in a lease and 504 applications for assignments involving less than 100% ownership interest in a lease.

³⁴ The 1982 and 2010 administrative reorganizations within DOI were carried out under authority that component entities could be re-delegated by the Secretary of the Interior. See CRS Report R41485, *Reorganization of the Minerals Management Service in the Aftermath of the Deepwater Horizon Oil Spill*, by Henry B. Hogue.

³⁵ P.L. 111-212 (July 29, 2010) and P.L. 111-322 (December 22, 2010). For a further discussion of DOI appropriations related to the 2010 reorganization, see CRS Report R41258, *Interior, Environment, and Related Agencies: FY2011 Appropriations*, coordinated by Carol Hardy Vincent, and CRS Report R41896, *Interior, Environment, and Related Agencies: FY2012 Appropriations*, coordinated by Carol Hardy Vincent.

³⁶ Bills regarding reorganization introduced in the 111th Congress included S. 3516, H.R. 3404, H.R. 3534 and H.R. 3736.

³⁷ Hearings in the House included an oversight hearing on July 15, 2011, "Offshore Energy: Interior Department's Plans for Offshore Energy, Revenue, and Safety Reorganization," and a legislative hearing on September 15, 2011, "Hearing on Discussion Draft to Reorganize the Interior Department's Offshore Energy Agencies," Subcommittee on (continued...)

BOEMRE Director Michael Bromwich about institutional changes underway within DOI. At issue for Congress was whether legislative proposals (H.R. 3404 and S. 917) were aligned with changes already being adopted as part of the DOI reorganization. With one exception with respect to the draft House proposal, legislative and administrative mechanisms for institutional reform were perceived by most observers as taking similar approaches to DOI management issues, with all approaches involving separating agency functions and strengthening federal requirements for worker safety and deepwater drilling. The exception noted during the September 2011 hearing on the draft House proposal focused on a provision aimed at establishing a new DOI Under Secretary for Energy, Lands, and Minerals. This provision marked a departure from the institutional structure implemented by DOI administrative reforms. Explaining the underlying purpose of the House language, Chairman Hastings noted that a new Under Secretary of Energy, Lands, and Minerals was needed to “elevate the issue of DOI energy production within the federal bureaucracy.”³⁸ H.R. 3404 was ordered to be reported by the Committee on Natural Resources on November 17, 2011, and included a provision establishing a new DOI Under Secretary for Energy, Lands, and Minerals.

To date no further legislative action on DOI reorganization is scheduled, and it remains to be seen whether further legislative action might occur during the 112th Congress.

What Concerns, If Any, Are Associated with the Reorganization?

Prior to the reorganization taking effect, a concern expressed by some observers (Members of Congress, state and federal regulators, companies, and citizen organizations) was that separating agency functions might result in negative outcomes such as delays or disruptions in permitting or other services due to uncertainty associated with the new system. Major delays in permitting associated with the reorganization did not materialize, but some uncertainty about the overall workings of each agency remains as a concern to some stakeholders in the aftermath of the reorganization.

Given that the reorganization overlapped with other developments (investigations into the cause of the Gulf oil spill of 2010, and multiple state and federal initiatives toward coastal and ocean areas) unfolding at the same time, it is possible that concern associated with the reorganization might be part of a general sense of uncertainty surrounding regulated offshore operations in the wake of the spill.³⁹ For example, policies toward deepwater drilling and worker safety have been in transition since 2010, beginning at roughly the same time the reorganization was announced. Uncertainty stems from questions about potential policy shifts in these areas, including: What new oversight and enforcement requirements might be anticipated for preventing oil spills in deepwater areas? What regulatory policies can leaseholders expect with respect to workforce safety? As these federal policies toward offshore energy development continue to evolve, the

(...continued)

Energy and Mineral Resources. A Senate hearing before the Senate Committee on Energy and Natural Resources focused on four bills (S. 516, S. 843, S. 916, and S. 917) with S. 917 addressing the reorganization. See S. Hrg. 112–51.

³⁸ Excerpts from the exchange between Chairman Hastings and DOI witness Michael Bromwich are part of a press release issued by the House Committee on Natural Resources.

³⁹ Specific reforms include enhanced drilling safety measures such as requiring operators to demonstrate that they are prepared to deal with the potential for a blowout and worst-case discharge (NTL-06). Enhanced worker safety regulations are referred to as the new Workplace Safety Rule and Safety and Environmental Management System (SEMS). 76 *Federal Register* 56683 (September 14, 2011).

context for offshore regulatory policy is perceived by many as less than settled. Against this backdrop, an unsettled regulatory context, questions remain about the way ONRR, BOEM, and BSEE might perform future regulatory tasks.

How Can Congress Measure Agency Performance Since the Reorganization?

The U.S. Government Accountability Office (GAO) analyzes federal agency performance for Congress. As part of its “High Risk” series, GAO is studying DOI agency performance to provide Congress with information about DOI performance in the aftermath of the 2010 reorganization.⁴⁰

GAO listed DOI offshore energy programs as part of the “High Risk” series based on an assessment that the combination of regulatory changes in the aftermath of the *Deepwater Horizon* events and institutional changes associated with the 2010 reorganization warranted a close study of DOI performance. According to Comptroller General Gene L. Dodaro’s testimony before the House Committee on Oversight and Government Reform on February 17, 2011, a GAO report analyzing the strengths and weaknesses of DOI offshore oil and gas programs is scheduled for publication in 2013.⁴¹ It is anticipated that the forthcoming GAO report will comment on effects of the 2010 DOI reorganization. It is difficult to forecast how GAO might review the 2010 reorganization because relatively little time has unfolded since all three agencies (ONRR, BOEM and BSEE) have been up and running.

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⁴⁰ GAO-11-394, 2011 High-Risk Series. GAO is studying DOI management in five areas: (1) reorganization, (2) balancing responsibilities, (3) human capital, (4) revenue collection, and (5) development of existing leases.

⁴¹ GAO-11-394, 2011 High-Risk Series. In 2011, GAO detailed 30 high-risk areas and added a new high-risk area—Interior’s Management of Federal Oil and Gas Resources. Gene L. Dodaro, U.S. Comptroller General, testified before the House Committee on Oversight and Government Reform, February 17, 2011; Committee on Appropriations, Subcommittee on Interior, Hearing March 17, 2011. GAO offers information on the High Risk series at <http://www.gao.gov/highrisk/>.