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Submitted On: 5/14/2022  
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**Defenders of Wildlife Comments - AB 525 Report - OSW  
Development**

*Additional submitted attachment is included below.*



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May 16, 2022

Kourtney Vaccaro, Commissioner  
California Energy Commission  
Docket Unit, MS-4  
Docket No. 17-MISC-01  
715 P Street  
Sacramento, California 95814

Electronically filed to the Docket No. 17-MISC-01

RE: Defenders of Wildlife's Comments – May 2022 Draft Offshore Wind Report on Offshore Wind Energy Development in Federal Waters Off the California Coast and Maximum Feasible Capacity and Megawatt Planning Goals for 2030 and 2045

Dear Commissioner Vaccaro,

On behalf of Defenders of Wildlife and our 323,000 members and supporters in California, we submit these comments on the California Energy Commission's (CEC) May 2022 Draft AB 525 Offshore Wind Report (draft Report) on offshore wind (OSW) energy development in federal waters off the California Coast and maximum feasible capacity and megawatt (MW) planning goals for 2030 and 2045. We strongly support the intent of AB 525 to consider and plan for the avoidance and minimization of impacts to coastal resources, Native American and Indigenous peoples, and fisheries. We appreciate the intensive efforts of the CEC, Coastal Commission, Department of Fish and Wildlife's Marine Region, Ocean Protection Council, Public Utilities Commission, and State Lands Commission to meet the AB 525 deadlines.

Defenders supports responsibly developed OSW energy as part of a clean energy portfolio. OSW energy can and must advance in an environmentally responsible manner to ensure that it

plays a reliable role in meeting the ambitious climate and clean energy goals throughout the west coast. At the same time, OSW development must safeguard valuable and vulnerable ocean and terrestrial habitats, fish and wildlife, cultural resources, and communities.

California has seen that unplanned, opportunistic, and poorly conceived energy generation and transmission development results in projects that struggle to be viable, are unnecessarily expensive, and cause significant and avoidable impacts to natural resources, cultural resources, and communities. Previous lack of planning has resulted in lost time, increased costs, and a lack of certainty. The implementation of AB 525 allows California agencies to leverage lessons learned from terrestrial renewable energy development to advance OSW energy planning and development that is Smart from the Start.

Utility-scale floating OSW is new to the California coast and this region presents a clean slate for the development of this renewable energy technology. The development of OSW on the California coast represents an unparalleled opportunity to proactively plan utility-scale renewable energy generation and transmission from conception – based on the best available science, public policy, and collaborative stakeholder involvement – to identify the best project locations and rapidly meet our clean energy needs while protecting our world-class natural and cultural resources and providing economic benefits.

## Feasibility Analysis and Goal Setting

OSW that is responsibly planned and developed to avoid, minimize, and mitigate potential environmental and economic impacts will benefit California. It is unfortunate there is a structural disconnect in the sequence of activities prescribed in AB 525 that placed identification of maximum feasible capacity and generation goal-setting ahead of sea space analysis. OSW development feasibility and generation potential depend on far more than just wind speed and cannot be separated from environmental considerations, transmission, port development, and existing ocean use. Realistic feasibility analysis and generation goal-setting require consideration of marine and coastal resources, Native American and Indigenous peoples, and fisheries.

We recognize that the preliminary planning goals of 3 GW by 2030 and 10 GW by 2045 align with recent energy and transmission planning efforts in the SB 100 process and the California Public Utility Commission's Integrated Resource Plan proceeding. We recommend the 2030 goal be approximately equally split between the Morro Bay and Humboldt Call Areas to allow for further understanding of the dynamics of OSW development at these locations, their very different settings, and different transmission scenarios.

The goals for 2045 and potentially 2050 in the draft Report can only be preliminary placeholders until the sea space analysis, strategic plan, and permitting road map are completed. We look forward to the sea space analysis, strategic planning effort, and permitting road mapping that identifies and considers marine and coastal ecosystems and incorporates avoidance, minimization, and mitigation of significant adverse impacts to provide realistic goals. Economically viable OSW that is affordable to California ratepayers is dependent on Smart from the Start siting. Bad siting of projects in areas of high conflict with marine and coastal resources will undermine project viability and result in increased project delay and costs that would be avoidable with siting informed by sea space analysis.

## Sea Space Analysis, Strategic Plan, and Permitting Road Map

We support CEC staff's recommendation that identifying suitable sea space for wind energy areas in federal waters, including the considerations required by AB 525 to identify such sea space, is a condition precedent to being able to quantify the maximum feasible capacity. Biological and cultural resources must be considered when quantifying maximum feasible capacity. Impacts to coastal species from port development and marine terminal operations must also be included. As noted in the draft Report, current data and analyses show that avoidance, minimization, mitigation, and adaptive management of these potential impacts can directly affect the megawatt planning goals.

Now that preliminary goals for 2045 and potentially 2050 have been suggested without sea space analysis, the development and implementation of a robust sea space analysis, strategic plan and permitting road map are even more critical to ensure offshore wind energy development will be located in areas with suitable sea space that avoids or minimizes potential impacts on coastal and marine ecosystems, Native American and Indigenous peoples, and fisheries. To support robust analysis and informed stakeholder engagement, we request the geospatial data, research reports, and other resources used to develop the feasibility study, goals, sea space analysis, strategic plan, and permitting road map be organized and posted in an AB 525 specific gallery in California Offshore Wind Energy Gateway (OSW Gateway).<sup>1</sup> The OSW Gateway should be expanded to incorporate natural, cultural, and economic resource data to support the analysis of landside OSW facilities, including marine terminals and transmission infrastructure. Data Basin and the OSW Gateway provide essential platforms for engagement with tribal governments, environmental justice communities, labor/workforce development partners, and economic development interests.

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<sup>1</sup> <https://caoffshorewind.databasin.org/>

Finally, on page 20, the draft report discusses the development of the strategic plan and how the approach for addressing impacts to coastal resources, fisheries, Native American and Indigenous peoples, and national defense and states *“This coalition of agencies and industry must develop strategies for addressing those potential impacts.”* This sentence must be revised to include tribes and stakeholders.

## Coordination with the Bureau of Ocean Energy Management process

We are concerned that identifying new Call Areas or unsolicited lease requests will occur in response to the preliminary planning goals in the draft Report. We request that the State work with the Bureau of Ocean Energy Management (BOEM) to ensure that no new Call Areas are designated and unsolicited lease requests are not accepted until the sea space analysis, strategic plan, and permitting road map required by AB 525 are completed.

## Timing of Comprehensive Environmental Review

As the strategic plan and permitting roadmap are developed under AB 525, the appropriate timing and level of environmental review under both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) must be considered. Comprehensive environmental review at the start of the offshore wind planning process and before leasing will provide significant benefits, including:

- Providing the agency with the broadest possible range of alternatives;
- Increasing project viability by identifying and addressing environmental issues early in the siting process;
- Allowing for optimal project siting and scope before any commitments, like power purchase agreements, are signed;
- Addressing potential resource conflicts upfront and enhancing buy-in from other ocean users; and
- Facilitating efficiency gains later in the process when, as appropriate, project-level analyses can tier off a programmatic environmental impact statement/report.

We continue to have concerns with BOEM’s leasing process and believe the Morro Bay and Humboldt Call Areas have advanced to the Wind Energy Area stage without appropriate environmental review. BOEM’s current process of deferring comprehensive environmental review until the end of the leasing process when construction and operations plans are approved fails to establish a baseline analysis that examines all critical issues on a broader scope, including potential cumulative impacts, that will help avoid unnecessary delay while protecting natural and cultural resources and other ocean uses. A coalition of environmental

organizations have made recommendations to BOEM on the appropriate NEPA process for OSW (see attached). The AB 525 strategic plan and roadmap should clearly address the timing and scope for appropriate CEQA and NEPA review that will allow for consideration of OSW projects as a whole and allow for the avoidance and minimization of impacts to marine and coastal resources, fisheries, Native American and Indigenous peoples.

## Conclusion

The AB 525 planning process provides a platform for thoughtful, informed decision-making for the development of California's nascent OSW energy and industry. OSW energy can and must advance in an environmentally responsible manner to meet state and national climate and clean energy goals while safeguarding vulnerable habitats, wildlife, communities, and economies. This is essential for ensuring that OSW energy can scale up to its full potential as a clean energy solution. We welcome the opportunity to meet with agency staff at any time to continue discussing planning for ecologically responsible OSW development. Please contact Kate Kelly at (530) 902-1615 or [kate@kgconsulting.net](mailto:kate@kgconsulting.net) with any questions.

Sincerely,



Pamela Flick  
California Program Director



Kate Kelly  
Consultant

Attachment:

Joint eNGO Letter to Amanda Lefton

March 17, 2022

Director Amanda Lefton  
Bureau of Ocean Energy Management  
1849 C Street, NW  
Washington, DC 20240

**Re: Optimizing Wind Energy Area Identification Through the National Environmental Policy Act**

Dear Director Lefton:

Our organizations are united in support of responsibly developed offshore wind energy as a critically needed climate change solution and share the Biden-Harris administration's interest in ensuring the growth of this industry while protecting biodiversity, cultural resources, and ocean uses. To help bring this clean electricity online as efficiently as possible while avoiding, minimizing, and mitigating environmental impacts, we urge you to undertake a programmatic environmental impact statement (PEIS) pursuant to the National Environmental Policy Act (NEPA) at the onset of regional planning to select Wind Energy Areas (WEAs).

Pursuing a comprehensive NEPA analysis at the start of the offshore wind planning and leasing process would provide significant benefits, including:

- Providing the agency with the widest possible range of alternatives;
- Increasing project viability by identifying and addressing environmental issues early in the siting process;
- Allowing for optimal project siting and scope before any commitments, like power purchase agreements, are signed;
- Addressing potential resource conflicts upfront and enhancing buy-in from other ocean users; and
- Facilitating efficiency gains later in the process when, as appropriate, project-level NEPA analyses can tier off the PEIS.

Establishing a baseline analysis that examines all critical issues on a broader scope would help avoid unnecessary delay while protecting marine resources and other ocean uses.

Given that we are embarking on a new ocean industry, it is important that we carefully consider at the outset of development how U.S. commercial offshore wind farms will impact marine and coastal ecosystems, including sensitive species, and are as intentional in site selection as possible. Integrating NEPA into the site selection process would enable the Bureau of Ocean Energy Management (BOEM) to comprehensively evaluate alternative locations, consider impacts to vulnerable ecosystems and protected species at a regional level, and identify and minimize cumulative impacts, all while facilitating meaningful public input. A PEIS to identify, at a landscape level, places that are least likely to conflict with important ecological functioning, as well as places that are best avoided, would help ensure an environmentally protective and rigorous, transparent, and trusted process from the start.

We envision a PEIS that analyzes the potential environmental impacts of all stages of offshore wind development (including site assessment and characterization, construction, operations, and



decommissioning) and assesses reasonable alternatives in the region to designate WEAs.<sup>1</sup> To consider how designation of new WEAs would cause or exacerbate environmental impacts in combination with existing or in-progress energy developments, the PEIS should also analyze past, ongoing, and reasonably foreseeable future actions as cumulative actions and effects. Examining the full scope of potential impacts and alternatives from the very start would enable BOEM to also consider, at the outset, measures for least-impactful development (e.g., quiet foundations) and ways to reduce conflicts with wildlife, sensitive habitat, and existing ocean users (e.g., coordinated regional site assessment and survey and construction schedules, sequencing of projects, seasonal restrictions for sensitive species).

By identifying impacts and affected parties early on, a PEIS should, over time, provide greater certainty and predictability for lessees going forward and increase efficiencies in later development stages by helping inform future NEPA reviews. Further, the learned information should be incorporated as avoidance, monitoring, mitigation, and adaptive management measures into lease stipulations, ensuring that final projects are more responsive to on-the-ground concerns. This approach would provide the opportunity to establish an environmentally protective and progressive process that incorporates all stakeholders at the outset.

## **I. The Benefits of Early NEPA Review**

As identification of WEAs is the main determinant of where offshore wind farms are leased and ultimately constructed, it is critical to fully explore environmental concerns *before* designating WEAs.<sup>2</sup> Currently, BOEM identifies WEAs through information gleaned from Calls for Information and Nominations and sometimes a Request for Interest, and from the Intergovernmental Renewable Energy Task Forces, in which the public has only a minimal role. NEPA provides a tried and true mechanism for engaging government entities and stakeholders in a comprehensive, inclusive, and transparent process to explore environmental concerns.

Under NEPA, Federal agencies have an obligation to “foster and promote the general welfare, create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.” 40 C.F.R. § 1500.1(a). Accordingly, Federal agencies must consider the environmental impacts of their actions before taking action and prepare “a detailed statement on proposals for major Federal actions significantly affecting the quality of the human environment.” *Id.* Such analysis should foster “informed decision making” and “excellent action.” *Id.*

NEPA mandates that environmental review occur early in the planning process to avoid delays and to inform sound decision-making. 40 C.F.R. §§ 1500.5(c), (h); *id.* § 1502.5; *see also id.* § 1501.2(a). Federal

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<sup>1</sup> The Call for Information and Nominations (Call) would still be required under regulations, and could be announced concurrent with the PEIS scoping. 30 C.F.R. § 585.211. Call information would not result in area designation but would instead be fed into the PEIS process and the PEIS would result in a record of decision which identifies the final WEAs. With a PEIS, we recommend BOEM no longer issue a Request for Interest, which is voluntary under the regulations. 30 C.F.R. § 585.210 (“BOEM *may* publish...a public notice of Request for Interest”) (emphasis added).

<sup>2</sup> The Outer Continental Shelf Lands Act calls for “protection of the environment” in renewable energy project approval. 43 U.S.C. § 1337(p)(4)(B); *see* 30 C.F.R. § 585.102(a)(2). More specifically, BOEM’s regulations require evaluation of environmental effects at the area identification stage, 30 C.F.R. § 585.211(b), and mention NEPA review, *id.* § 585.214(c), but do not indicate the form that environmental or NEPA review should take.

agencies “should integrate the NEPA process with other planning and authorization processes at the earliest reasonable time to ensure that agencies consider environmental impacts in their planning and decisions, to avoid delays later in the process, and to head off potential conflicts.” *Id.* § 1501.2(a). This early review must identify environmental impacts and alternatives to avoid these impacts and conflicts. *Id.* § 1501.2(b).

Use of a PEIS in the WEA selection process is also consistent with NEPA’s statutory directive, which requires agencies to prepare a detailed statement on federal proposals, including “any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.” 42 U.S.C. § 4332(2)(C). Because the selection of WEAs has a preclusive effect on areas to be leased and developed, it is a commitment of resources that could only be reversed by BOEM’s decision not to hold a lease sale or not to approve the winning lessees’ subsequent plans.

Conducting a PEIS over a broad area to designate WEAs would help ensure a transparent, rigorous alternatives analysis to determine which areas of optimal offshore wind energy potential offer the fewest potential conflicts with the local environment and existing ocean users, present the greatest potential to avoid, minimize, and mitigate environmental impacts, and are overall most appropriate for offshore wind energy development.<sup>3</sup> Conducting a thorough analysis before a broad area is winnowed down would help ensure a complete look at all suitable areas. It would illuminate environmental and use conflicts at the very start, highlighting, early on, resource and user concerns that could slow or prevent eventual project approval, therefore enabling more informed decision-making from all parties, including potential lessees.<sup>4</sup>

A PEIS to identify offshore wind siting and leasing options would also build public confidence in the WEAs that are identified. It would engage the public in decisions from the first possible step, removing any perception that outcomes could be biased by developers or other agencies. Thorough up-front review would offer efficiency for later development stages, as future NEPA reviews could draw from the information gathered through PEIS preparation,<sup>5</sup> and would increase certainty for potential lessees that the offered lease sale areas have the necessary support from the public and other stakeholders to advance to operations. Improved knowledge of challenges would also allow for earlier collaboration to develop solutions and the incorporation of monitoring, mitigation, and adaptive management measures into project design.

Preparing a PEIS at the WEA identification stage is unlikely to significantly delay the planning process for future offshore wind developments compared with the current BOEM process and in fact could prevent unnecessary delay during subsequent stages. To date, timing for offshore wind siting and leasing processes has ranged widely, with one of California’s WEA identification processes extending nearly five

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<sup>3</sup> Regions should be defined as the largest area sufficient to meaningfully provide analysis of areas for future offshore wind development, while factoring in all current and proposed uses within the area and accounting for highly migratory species.

<sup>4</sup> The primary purpose of an environmental impact statement (EIS) is “to ensure agencies consider the environmental impacts of their actions in decision making. It shall provide full and fair discussion of significant environmental impacts and shall inform decision makers and the public of reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment.” 40 C.F.R. § 1502.1.

<sup>5</sup> 40 C.F.R. § 1501.11 allows agencies to use tiering for subsequent environmental review. In particular, tiering may occur if a programmatic EIS is prepared, or if an EIS is prepared at an early stage (such as site selection). *Id.* at 1501.11(c).

years,<sup>6</sup> and final designation of lease areas for North Carolina exceeding eight and a half years.<sup>7</sup> While the rollout has varied with the administration, even BOEM’s current ideal timeline for planning areas under consideration suggests WEA identification will take roughly a year to complete.<sup>8</sup> We urge BOEM to direct additional resources toward the creation of PEIS documents in order to achieve the administration’s ambitious offshore wind goals in a timely fashion.

## II. BOEM Should Not Defer Thorough Environmental Review to Future Phases of Commercial Offshore Wind Development

BOEM should engage NEPA from the onset of offshore wind planning, rather than waiting until the lease sale stage to begin its formal public engagement and environmental review processes. A PEIS prepared at the outset of planning should take advantage of its broad geographic and temporal perspective to comprehensively consider the full range of impacts of offshore wind development—including site assessment, construction and operations. Because the purpose of the WEAs and leasing process is to allow development of commercial wind projects, this NEPA analysis should include future activities that are reasonably foreseeable to flow from WEA identification and leasing.<sup>9</sup>

An agency should consider direct, indirect, and cumulative effects of a proposed action, including reasonably foreseeable actions across geographic areas and over time. 40 C.F.R. § 1508.1.<sup>10</sup> In this case, designation of WEAs will lead to effects that are reasonably foreseeable. *Id.* § 1508.1(g). “Reasonably foreseeable means sufficiently likely to occur such that a person of ordinary prudence would take it into account in reaching a decision.” *Id.* § 1508.1(aa). Commercial wind development is a reasonably foreseeable consequence of WEA designation because it is the sole focus and end goal of the site

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<sup>6</sup> BOEM published its initial request for interest (RFI) for California in August 2016, but did not finalize the Morro Bay WEA until November 2021. BOEM, “California Activities,” <https://www.boem.gov/renewable-energy/state-activities/california> (last visited March 2, 2022).

<sup>7</sup> BOEM published its initial RFI for wind offshore North Carolina in December 2012 and its WEA over a year and a half later, but does not expect to publish its final sale notice until May of this year. BOEM, “North Carolina Activities,” <https://www.boem.gov/renewable-energy/state-activities/north-carolina-activities> (last visited March 2, 2022); BOEM, “Carolina Long Bay,” <https://www.boem.gov/renewable-energy/state-activities/carolina-long-bay> (last accessed March 2, 2022).

<sup>8</sup> *E.g.*, BOEM released the initial RFI for the Gulf of Mexico in June 2021 and expects to release final WEAs in Q3, 2022. BOEM, “Gulf of Mexico Activities,” <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities> (last accessed March 2, 2022). BOEM drafted planning areas in the Central Atlantic in November 2021, and expects to finalize WEAs in Q3, 2022. BOEM, “Central Atlantic Activities,” <https://www.boem.gov/renewable-energy/state-activities/central-atlantic-activities> (last accessed March 2, 2022).

<sup>9</sup> BOEM has ample precedent for preparing an EIS early in the commercial wind leasing and permitting process. BOEM prepared an EIS prior to approving a lease for the Cape Wind Project. *Public Employees for Environmental Responsibility v. Hopper*, 827 F.3d 1077 (D.C. Cir. 2016).

<sup>10</sup> The Council on Environmental Quality (CEQ) revised its NEPA regulations in 2020, 85 Fed. Reg. 43,304 (July 16, 2020) (“2020 Rule”). The 2020 Rule removed the requirement to consider “cumulative” impacts (defined in the 1978 regulations as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions,” including that resulting from “individually minor but collectively significant actions,” 40 C.F.R. § 1508.7 (1978)). CEQ is now proposing to restore the definition of “cumulative impacts.” *See* 86 Fed. Reg. 55,757, 55,762 (Oct. 7, 2021). Moreover, CEQ’s 2020 regulations are currently being challenged in federal court. *See Wild Va. v. CEQ*, No. 21-1839 (4th Cir.). Further, Secretary Haaland directed agencies to continue applying the pre-2020 NEPA regulations in instances when applying the 2020 Rule “would change the application or level of NEPA that would have been applied to a proposed action before the 2020 Rule went into effect.” Secretary of the Interior Order No. 3399 (April 16, 2021).

identification and leasing process. Accordingly, BOEM should not wait until after WEA designation to conduct the first NEPA review regarding offshore wind developments.

A PEIS, instead of a Programmatic Environmental Assessment, is appropriate given the high likelihood of significant impacts on the environment from all stages of development.<sup>11</sup> Factors to consider when determining whether the effects of a proposed action may be significant include “the affected area (national, regional, or local) and its resources, such as listed species and designated critical habitat under the Endangered Species Act.” *Id.* § 1501.3(b)(1). Agencies should consider “[b]oth short- and long-term effects.” *Id.* § 1501.3(b)(2)(i). Significant impacts should be assumed for WEA siting as, for example:

(1) offshore wind development in the U.S. is a nascent technology with the potential for highly uncertain, unique, or unknown risks which may be significant, *id.* § 1508.27(b)(5)<sup>12</sup>;

(2) commercial offshore wind development may result in both positive impacts to help meet our nation’s important renewable energy goals and address climate change, as well as potentially adverse impacts to marine and coastal habitats and wildlife, *id.* § 1508.27(b)(1)<sup>13</sup>; and

(3) many wildlife taxa (e.g., whales and birds) which would be affected by offshore wind development in a single designated WEA migrate, feed, and reproduce in broader areas along the coasts and therefore multiple offshore wind projects along our coastlines could contribute to cumulatively significant impacts, *id.* § 1508.27(b)(7).<sup>14</sup>

As previously noted, a PEIS would also benefit a wide range of decision makers. A PEIS would provide BOEM, the public, and potential lessees with a more robust analysis of potential impacts and alternatives at the start. Whereas an EA need only include a brief discussion of impacts and alternatives, *id.* § 1501.5(c), an EIS must analyze impacts, mitigation measures, and alternatives in detail, *id.* §§ 1502.14; 1502.16. Preparation of a thorough analysis in an EIS will help BOEM and developers avoid, minimize, and mitigate impacts and conflicts and will pave the way for a more efficient permitting process.

### **III. A PEIS Is Authorized Under the Outer Continental Shelf Lands Act and BOEM’s Regulations**

Preparing a PEIS at the beginning of the WEA designation process would be consistent with BOEM’s statutory and regulatory authority. The Outer Continental Shelf Lands Act provides BOEM the discretion to prepare a PEIS at the WEA designation stage. 43 U.S.C. § 1337(p)(1)(C). Similarly, BOEM’s renewable energy regulations provide the discretion to undertake a PEIS early in the process. They take a staged approach to offshore wind leasing, beginning with planning and analysis and progressing through

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<sup>11</sup> NEPA requires the preparation of an environmental impact statement when a major Federal action will significantly affect the human environment. 42 U.S.C. § 4332(2)(C). NEPA regulations direct agencies to prepare environmental assessments when a proposed action is not likely to have significant effects or the significance of effects is unknown. 40 C.F.R. § 1501.5(a).

<sup>12</sup> Although the 2020 Rule removed the definition of “significantly,” Secretary Haaland directed agencies to continue applying the pre-2020 NEPA regulations in instances when applying the 2020 Rule “would change the application or level of NEPA that would have been applied to a proposed action before the 2020 Rule went into effect.” Secretary of the Interior Order No. 3399 (April 16, 2021).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

lease issuance, approval of a site assessment plan, and approval of a construction and operation plan. *See* 30 C.F.R. § 585.600–01.

The regulation governing “Area Identification” says that BOEM will “identify areas for environmental analysis and consideration for leasing” in “consultation with appropriate Federal agencies, States, local governments, affected Indian Tribes, and other interested parties.” *Id.* § 585.211(b). This “Identification” would be well-suited to a NEPA process. Moreover, the regulations state, “We will evaluate the potential effect of leasing on the human, marine, and coastal environments, and develop measures to mitigate adverse impacts, including lease stipulations.” *Id.* § 585.211(b)(2). Because many of the effects of leasing depend on where leasing happens, evaluating these impacts in a PEIS early, prior to WEA selection, presents a significant opportunity to improve siting decisions at the outset through a more formalized and public-facing process.

We deeply appreciate this administration’s renewable energy commitments and urge process reforms to secure a smoother onramp for the industry while protecting our valuable and vulnerable wildlife and habitats and addressing the needs of all ocean stakeholders. Thank you for your efforts to address these concerns; we look forward to working with you to meet the promise of this moment.

Sincerely,

Priscilla M. Brooks, Ph.D.  
Vice President and Director of Ocean  
Conservation  
**Conservation Law Foundation**

Linda Krop  
Chief Counsel  
**Environmental Defense Center**

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Colleen Weiler  
Jessica Rekos Fellow  
**Whale and Dolphin Conservation**

cc: Jim Bennett, Program Manager, BOEM Renewable Energy Program  
Michelle Morin, Chief, BOEM Environment Branch for Renewable Energy