

February 1, 2022

Amanda Lefton, Director
Bureau of Ocean Energy Management
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Re: Need for a Programmatic Environmental Impact Statement to Identify Wind Energy Areas in the Gulf of Maine

Dear Director Lefton:

Conservation Law Foundation (“CLF”), Natural Resources Defense Council (“NRDC”), National Wildlife Federation (“NWF”), and National Audubon Society submit the following letter in regard to the Bureau of Ocean Energy Management’s (“BOEM”) and Department of Interior’s (“DOI”) October 13, 2021 announcement that BOEM intends to conduct offshore wind lease sales by 2025 in the Gulf of Maine.¹ Our organizations are deeply committed to policy, science, and economics based efforts to address climate change and strongly support the Biden Administration’s efforts to swiftly advance clean energy alternatives—including responsible offshore wind development that avoids, minimizes, and mitigates impacts—upon which a decarbonized economy can be centered. We strongly urge BOEM to conduct a programmatic environmental impact statement (“PEIS”) pursuant to the National Environmental Policy Act (“NEPA”)² at the onset of offshore wind planning to identify wind energy areas (“WEA”). From our more than a decade of experience in southern New England and the many lessons learned during the development and on-going permitting of various projects there, we urge BOEM to conduct a PEIS that fully analyzes the Gulf of Maine’s outstanding ecological significance and importance, including to the local fishing industry and coastal economy.

I. Incorporating NEPA Review at the Start of WEA Identification in the Gulf of Maine is Critical

Because WEAs dictate which areas are leased and where offshore wind farms are ultimately constructed, BOEM should fully consider the environmental and socioeconomic impacts of multiple offshore wind projects across a region before designating WEAs. Unfortunately, under current practice, WEAs are identified through information gleaned from the Call for Information and Nominations and the Intergovernmental Renewable Energy Task Forces, which the public has only a minimal role in; environmental assessment of the area does not occur until WEAs have already been identified; and even then only encompasses offshore wind site assessment and characterization activities, as opposed to consideration of the entire lifespan of the projects,

¹ “Secretary Haaland Outlines Ambitious Offshore Wind Leasing Strategy,” DOI (October 13, 2021).

² 42 U.S.C. §4321 et seq.

including construction and operations.³ Waiting to conduct an initial NEPA review until after a broad area has been winnowed down to WEAs limits the information available to decision-makers during site selection. Existing process lacks the rigorous analysis necessary to ensure that the full extent of the impacts of offshore wind developments are first avoided, and then minimized and mitigated.

When done correctly, NEPA provides a tried-and-true mechanism for engaging all of the government entities and stakeholders in a comprehensive, inclusive, and transparent process to explore the direct, indirect, and cumulative environmental impacts of an activity. Completing a PEIS prior to the identification of WEAs would have multiple benefits because it would (1) ensure that areas selected have the optimum wind energy potential with the least potential environmental and social impacts; (2) illuminate and address the environmental and user conflicts from the start to reduce the likelihood of litigation at a later date; and (3) provide a more robust public engagement and comment process that identifies resource and user concerns earlier and more thoroughly than BOEM's current reliance on the Call for Information and Nominations process. Adopting a NEPA review process to designate WEAs would also build public confidence in the WEAs that are identified, and the improved knowledge of challenges would allow stakeholders, lessees, and agencies to start collaborating on developing solutions to recognized impacts at the beginning of the process, instead of learning of issues later in the process when BOEM conducts detailed environmental analyses of individual project construction and operations plans. A PEIS would also capitalize on the significant experience that stakeholders and federal, state and tribal entities have in regional ocean planning, which for many in New England has become the expected way to collaborate and deliberate on the management of the ocean.

II. Siting Projects in the Gulf of Maine Requires a Rigorous Alternatives Analysis

A PEIS prior to identifying WEAs in the Gulf of Maine would provide the rigorous alternatives analysis necessary to determine which areas produce optimal offshore wind energy potential, have the least potential conflicts with the environment and ocean users, and are overall most appropriate for offshore wind energy development.

The Gulf of Maine is one of the most productive ecosystems in the world. Known as a “sea within a sea,” the Gulf of Maine is characterized by a unique undersea topography of deep basins, shallow banks, and ledges and by powerful tidal currents, which mix the cold waters of the North Atlantic with the freshwater of 60 rivers draining into the Gulf. This fuels a biological engine that supports some 3000 species of wildlife, including marine mammals, fish, birds, turtles, and invertebrates. The Gulf of Maine plays a significant role in the culture of New England and is the foundation for a coastal economy characterized by commercial and recreational fishing, aquaculture, recreational boating, shipping, and tourism. There is no doubt that offshore wind development in the Gulf of Maine will significantly affect the human

³ BOEM currently conducts an environmental assessment after WEAs are identified to advise site assessment and characterization activities.

environment in the region. A PEIS, instead of a Programmatic Environmental Assessment, is therefore appropriate given the significant impacts on the environment when all stages of development are considered.⁴

We envision that a PEIS for the Gulf of Maine would analyze all stages of offshore wind development (including site assessment, construction, operations, and decommissioning) and assess all reasonable alternatives in the region in order to identify WEAs. Examining the full scope of potential impacts from the very start would enable BOEM to consider, at the outset, measures or recommendations for least impactful development types and survey and construction schedules and ways to avoid or reduce conflicts like the ones unfolding in other areas of the United States where offshore wind permitting and development is underway. By identifying affected parties and impacts early on, a PEIS could provide greater certainty and predictability for lessees going forward and could increase efficiencies in later development stages by helping inform future NEPA reviews. Further, the learned information could be incorporated as monitoring, mitigation, and adaptive management measures into lease stipulations, ensuring the final projects are more responsive to on-the-ground concerns. It provides the chance to establish an environmentally protective and progressive process, while setting a level playing field among bidders.

Under current regulations, BOEM is required to conduct a Call for Information and Nominations.⁵ We recommend that scoping for a PEIS occur simultaneous with the Call and that the information gathered from the Call be one of the inputs that feeds into the PEIS process. The PEIS would then result in a record of decision that identifies the final WEA or WEAs in the Gulf of Maine.

In sum, to maximize the opportunity for offshore wind projects to be developed with minimal environmental impacts and maximum stakeholder input and engagement from the start, CLF, NRDC, NWF, and National Audubon Society recommend that BOEM conduct a PEIS prior to and as the means for identifying WEAs in the Gulf of Maine. We appreciate BOEM's consideration of this letter and would like to arrange a meeting with BOEM in the coming weeks to discuss this matter further.

⁴ 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(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).

⁵ 30 C.F.R. §585.211(a).

Sincerely,

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