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By Electronic Filing and Overnight Mail

Scott A. Angelle
Director, Bureau of Safety and Environmental Enforcement
Attn: Regulations Development Branch
45600 Woodland Road, VAE-ORP
Sterling, Virginia 20166

RE: Department of the Interior, Bureau of Safety and Environmental Enforcement
Docket ID No. BSEE-2018-0002; 189E1700D2
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Oil and Gas and Sulfur Operations in the Outer Continental Shelf – Blowout Preventer Systems and Well Control Revisions – Regulation Identifier Number 1014-AA39

Dear Mr. Angelle:

We write on behalf of the people of the State of California to express our serious concerns about the Bureau of Safety and Environmental Enforcement's (BSEE) proposed revisions to the Blowout Preventer Systems and Well Control regulations (Proposed Rules). We submit these comments on the Proposed Rules as set forth in the Federal Register, Volume 83, No. 92/Friday, May 11, 2018.

As explained in greater detail below, California bases its concerns on specific factors. First, the Proposed Rules are premature because, in developing the rules, BSEE failed to fully involve all interested persons and entities, including tribal nations, states, affected local governments, non-profits, and academics. Second, BSEE has not identified sufficient evidence to support the Proposed Rules nor based its proposal on identified data. Third, BSEE failed to explain why any revisions to the Blowout Preventer Systems and Well Control regulations are justified, particularly since the current regulations were adopted less than two years ago, have not all taken effect yet, and were specifically required to prevent another tragedy on the Outer Continental Shelf (OCS). Fourth, BSEE has only prepared a Draft Environmental Assessment. The environmental impacts discussed in that assessment are significant in their scope and intensity; therefore, BSEE should provide an Environmental Impact Statement in order to fully comply with the National Environmental Policy Act.

Importantly, the Department of the Interior recently proposed a new leasing program for the OCS, including areas offshore of California, and that proposal relies on the existing regulations that BSEE now proposes to revise. BSEE must take that new leasing program into account in its consideration of the Proposed Rules.

BACKGROUND

BSEE is the lead federal agency charged with improving safety, ensuring environmental protection, and conserving natural resources related to the offshore energy industry operating on the OCS. (BSEE Annual Report, 2016, p. 5.)[1] BSEE's mission is to "promote safety, protect the environment and conserve resources offshore through vigorous regulatory oversight and enforcement." (*Ibid.*)

On April 20, 2010, an explosion tore through the *Deepwater Horizon* drilling rig as the rig's crew completed drilling the exploratory Macondo well, deep under the waters of the Gulf of Mexico. (Deep Water: The Gulf Oil Disaster and the Future of Offshore Drilling, Report to the President by the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, January 2011, p. vi (Report to the President).) That explosion began an enormous human, economic, and environmental disaster. (*Ibid.*) Eleven crew members died and others were seriously injured. (*Ibid.*) More than four million barrels of oil gushed uncontrolled into the Gulf, threatening livelihoods, precious habitats, and even a unique way of life. (*Ibid.*) As the Report to the President concluded, the explosive loss of the Macondo well could have been prevented. (Report to the President, p. vii.) The *Deepwater Horizon* was drilling the Macondo well under 5,000 feet of Gulf water, and then over 13,000 feet under the sea floor to the hydrocarbon reservoir below, a risky and complex enterprise. (Report to the President, pp. viii-ix.)

During 2016, BSEE revised key regulations regarding the OCS. (BSEE Annual Report, 2016, p. 5.) With respect to well control, the *Deepwater Horizon* tragedy and corresponding Macondo well blowout are the clearest demonstrations of the catastrophic consequences that can result when well control is lost. (*Id.* at p. 33.) After careful review and consideration of comments from stakeholders and the public, BSEE published the Blowout Preventer Systems and Well Control (WCR) final rule on April 26, 2016; most–but not all–of the WCR provisions became effective on July 28, 2016. (*Id.* at p. 6) To allow industry time to comply, the WCR was phased in over time. (*Ibid.*) Some of the rule changes would not take effect for five to seven years, and thus are not now in effect. (*Ibid.*)

It is with this background in mind that we comment on the current Proposed Rule.

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[1] https://www.bsee.gov/sites/bsee.gov/files/bsee_2016_annual_report_v6b.pdf

1. Executive Summary (Fed. Reg. Vol. 83, No. 92, pp. 22128-22129)[2]:

The Executive Summary states that BSEE has continued to engage with the offshore oil and gas industry, Standards Development Organizations, and other stakeholders. The summary does not indicate that BSEE engaged with tribal nations, states, affected local governments, non-profits, and academics before beginning the process of changing the regulations. BSEE should not limit its engagement to the regulated industry but should consult with *all* persons and entities that might be affected by any regulatory changes, particularly those involving safety and environmental protection.

In drafting regulations pertaining to offshore oil drilling, consideration must be given to the economic, social, and environmental values of the resources contained in the OCS, and the potential impacts on marine, coastal and human environments. (See, 43 USC § 1334.) Cooperation with affected states is mandated. (*Ibid.*) Without consulting interested and affected parties outside of industry, there is no indication such considerations were adequately given in drafting the Proposed Rules.

2. Blowout Preventer Requirements (FR 22139; § 250.734):

There is a lack of explanation as to why BSEE would return to pre-2016 WCR regulation regarding blowout preventers. The use of double shear rams in blowout preventers stacks increases the likelihood that a drill pipe can be sheared in an emergency and is directly related to the *Deepwater Horizon* failure to completely sever the pipe. BSEE should explain why not using double shear rams is justifiable. Accumulators are used subsea to provide fast closure of blowout preventers components. BSEE should explain why allowing operators to simply use industry standards, which do not necessarily require accumulators, is justified. Importantly, the centering requirements are not even in effect yet. BSEE allowed three years to implement the centering requirements so they will not be in effect until 2019. Consequently, BSEE simply cannot have evidence that the centering requirements do not work. The *Deepwater Horizon* investigations specifically identified the failure of the blowout preventers to be able to center as resulting in an inability to shear it.

The shear-ram change suggests that, instead of *each* of the shear rams being able to shear the pipe under maximum anticipated surface pressure (MASP), the rule should be changed to require that *at least one* of the shear rams be able to shear the pipe under MASP. The proposed change seems to be reducing fail-safe measures in a critical piece of machinery. BSEE justifies its position by stating "[t]his would not impact safety because BSEE would still require the capability to shear at any point along the tubular body of any drill pipe" (FR at p. 22139), while the capability would still exist with *at least one* of the shearing arms, the safeguard of *both* shearing arms having this capability would no longer be required. Given the blowout preventers' importance in safety, BSEE should explain why only requiring one shear ram to seal under MASP is acceptable.

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[2] All further references to the Federal Register (FR) are to pages in Volume 83, Number 92, unless otherwise indicated.

BSEE's revision to paragraph (a)(6)(iv) seeks to require that the autoshear/deadman failsafe be able to close *only 2 shear rams* as opposed to *all of them*. BSEE states that "[c]losing two shear rams in sequence may not be advantageous for certain emergency disconnect system (EDS) functions" (Fed. Reg. at p. 22140) but does not offer an explanation as to why having the autoshear/deadman close all the shear rams would not be advantageous, nor which functions of the EDS are in question. The removal of the existing deadman/autoshear requirements should be explained and justified by rigorous analysis as prescribed by the Report to the President. (See, Report to the President, at p. 124.)

BSEE is attempting to remove the requirement that the subsea accumulator have enough capacity to provide for *independent* blowout preventers closure and replace it with the requirement that the entire system (subsea and surface) be able to achieve blowout preventers closure. This removes an independent failsafe and replaces it with a reliance on multiple moving parts, parts that may be separated by 5000 feet of ocean. Given that the *Deepwater Horizon's* blowout preventers failed due to damage sustained on the rig after an initial explosion, removing the blowout preventers' independent capacity to seal the well raises significant safety and environmental concerns. Further, to make this change because the existing rule exceeds current design limits seems beholden to industry; actual evidence should be offered in support of this change. The *Deepwater Horizon* served as an indicator for regulators to push industry to design equipment that ensures safer operations, not hamstring operational safety to favor the status quo.

The *Deepwater Horizon* report discussed the consequences of failing to have an independent blowout preventer system and the associated risk of relying entirely on the deadman system: "[i]t is possible that the first explosion had already damaged the cables to the [blowout preventers], preventing the disconnect sequence from starting. Even so, the [blowout preventers'] automatic mode function (the '"deadman"' system) should have triggered the blind shear ram after the power, communication, and hydraulics connections between the rig and the [blowout preventers] were cut. But the deadman failed too. Although it is too early to tell at this point, this failure may have been due to poor maintenance." (Report to the President, at p. 115.) If the new rule is adopted, tomorrow's subsea accumulators will be reliant on rig conditions, which as *Deepwater Horizon* demonstrated, can be volatile. Thus, removing the requirement for an independent subsea system should be justified by evidence because, as the Commission noted, "given the dangers of deepwater drilling, companies involved must have in place strict policies requiring rigorous analysis and proof that less-costly alternatives are in fact equally safe." (Report to the President, at p. 124.)

3. Requirements for a Surface Blowout Preventers Stack (FR 22139; § 250.733):

The proposed removal of the alternative cutting device seems to be at direct odds with BSEE's proposed change to § 250.734 which reads in part "BSEE is aware that certain casing shears still have difficulty shearing electric-, wire-, or slick-line, while certain blind shear rams have difficulties shearing larger casing sizes." (Fed. Reg. at p. 22139.) Despite BSEE's stated awareness of the difficulty that shears have in cutting some wires, BSEE seeks to remove the requirement to provide an alternative cutting device. BSEE should offer satisfactory reasoning

as to why it seeks to remove an important failsafe in the blowout preventers. That reasoning should require more than a reliance on self-regulation by industry, as this approach would contradict the Report to the President: "[*Deepwater Horizon*] resulted from clear mistakes made in the first instance by BP, Halliburton, and Transocean, and by government officials who, relying too much on industry's assertions of the safety of their operations, failed to create and apply a program of regulatory oversight that would have properly minimized the risks of deepwater drilling." (See Report to the President, at p. 127; see also, *id.* at p. 217 ["The record shows that without effective government oversight, the offshore oil and gas industry will not adequately reduce the risk of accidents, nor prepare effectively to respond in emergencies"].)

4. Real Time Monitoring (FR 22137; § 250.724):

Real Time Monitoring (RTM) also has not yet gone into effect so BSEE cannot say definitively that RTM does not work. BSEE has not demonstrated that available data supports eliminating RTM. Soliciting additional comment on RTM is not supported at this time. BSEE failed to identify evidence that demonstrates performance based metrics are better than prescriptive metrics. Importantly, onshore personnel can use RTM data to help rig personnel conduct rig operations safely.

Removing 250.724(b) and replacing it with 250.724(c) may reduce the effectiveness of RTM. BSEE's proposed adoption of an approach that allows industry to submit their RTM plan in lieu of meeting established requirements threatens the effectiveness of RTM. BSEE states that it "revised this section to outline the RTM requirements and allow the operators to determine how they would fulfill those requirements" but does not offer the revisions. We request clarification to determine how BSEE's approval of industry RTM plans will be a sufficient replacement for the existing standards.

The need for the requested clarification derives directly from the lessons learned from the *Deepwater Horizon* tragedy. As the Report to the President made clear, "[i]ndustry self-policing is not a substitute for government but serves as an important supplement to government oversight." (Report to the President, at p. 234.) With this in mind, the Report to the President provided its recommendation on the need for RTM and data-sharing and suggested that government should:

> "Develop more detailed requirements for incident reporting and data concerning offshore incidents and 'near misses.' Such data collection would allow for better tracking of incidents and stronger risk assessments and analysis. In particular, such reporting should be publicly available and should apply to all offshore activities.... In addition, Interior, in cooperation with the International Regulators Forum, should take the lead in developing international standards for incident reporting in order to develop a consistent, global set of data regarding fatalities, injuries, hydrocarbon releases, and other accidents. Sharing information as to what went wrong in offshore operations, regardless of location, is key to avoiding such mistakes."

(Report to the President, at p. 254.) Given that the Report to the President determined that, "[m]ost, if not all, of the failures at Macondo can be traced back to underlying failures of management and communication" (Report to the President, at p. 122), changes to the existing rules governing communication and data-sharing should be carefully explained and justified.

5. Blowout Preventer Testing Results (FR 22141; § 250.737):

BSEE's workload is an insufficient basis to remove the requirement that test results be provided to BSEE when BSEE cannot witness a blowout preventers test. BSEE should require that all results be submitted to BSEE as soon as practicable and not allow the operators to wait until BSEE has requested the results. To allow that would unduly delay reporting results. Moreover, BSEE should put the burden on the operator, not shoulder the burden of requesting results. Test results are a critical source of determining blowout preventers' adequacy and should be in BSEE's possession as soon as practicable.

This change removes the requirement for on-site supervision and instead relies on a remote and discretionary review of the inspection results. Removing the real-time supervision of the methods used to conduct inspections of well control system components–a critical safety feature–places complete faith in the operators, when history shows that such faith is misplaced. This change removes a safeguard that prevents inadequate testing, and thus, the change stands to reduce safety. The Report to the President shared two warnings, "[t]he record shows that without effective government oversight, the offshore oil and gas industry will not adequately reduce the risk of accidents, nor prepare effectively to respond in emergencies" and "[i]ndustry self-policing is not a substitute for government but serves as an important supplement to government oversight." (Report to the President, at pp. 217, 234.) In light of these warnings, an adequate explanation for the proposed change should be offered.

BSEE's proposed revision to Paragraph (d)(12)(iv) seems to allow for operators to conduct the deadman test at low pounds per square inch (PSI) during the test, so long as operators end the test with an acceptable PSI. This change, too, would place a significant amount of trust in industry self-regulation. BSEE did not offer any reasoning for this change. Given that the Report to the President determined that "[f]ederal oversight of oil and gas activities… took a generally minimalist approach in the years leading up to the Macondo explosion" (Report to the President, at p. 84), the trust BSEE is placing in industry requires a meaningful explanation.

6. BSEE Approved Verification Organizations (FR 22138, § 250.731-732):

BSEE required BSEE-Approved Verification Organizations (BAVO) to provide a level of safety and regulatory oversight that was lacking, resulting in unacceptable safety and environmental risks. BSEE previously stated that it could not rely on voluntary programs. BSEE has not demonstrated an evidentiary basis to support the proposed change.

The existing rule allows for third party verification organizations to be used for up to one year. However, BSEE previously drew a line that separated third parties from BAVOs for a

reason. On its face, the proposed change is contrary to BSEE's previous reasoning. A third party may not necessarily meet existing BAVO requirements or be willing to go through them as the third party may have interests or agendas that conflict with safety. The Report to the President noted "[t]o be credible, any industry-created safety institute would need to have complete command of technical expertise available through industry sources–and complete freedom from any suggestion that its operations are compromised by multiple other interests and agendas." (Report to the President, at p. 124.) BSEE should take steps to ensure that any third party is acting in good faith before it verifies rig safety measures. Thus, an explanation should be offered to support the proposed change.

7. Third Party Requirement for Blowout Preventers Systems and System Components (FR 22138; § 250.732):

The justification provided for reducing shear ram testing requirements by 83% is that "shear ram testing timeframes of five minutes in a lab have been well established, and BSEE believes the historical data indicates that five minutes is adequate to demonstrate effective sealing." (FR 22138.) However, this seems to be a return to a business-as-usual approach. The existing WCR saw fit to change the sealing time from 5 to 30 minutes. A 5/6 (83%) reduction of the shear ram testing standards to better align with previously existing data is a significant rollback. BSEE does not make mention of the positive (or negative) testing results that came from the 30-minute sealing tests. It seems that an analysis comparing 30-minute data to 5-minute data should be provided to justify BSEE's position. If industry advances continue to pit rig operators against more extreme environmental circumstances, a return to the 5-minute test for shear arms, may lag behind new realities faced by industry in future practices.

The Report to the President made clear that the business as usual approach should not be sustained by stating "[t]he oil and gas industry needs now to regain that trust [of the American people], but doing so will require it to take bold action to make clear that business will no longer be conducted as usual in the Gulf." (Report to the President, at p. 247.) Further, the Report to the President stated that "improving the technologies and methods available to cap or control a failed well in the extreme conditions thousands of feet below the sea is critical." (Report to the President, at p. 272.) Better technology can–and should–be able to meet the rigorous testing standards that BSEE previously enacted. If the equipment cannot meet the existing standards, BSEE must offer a complete explanation.

8. Lift Boats and Platform Operations (FR 22137; § 250.723):

The current rule requires shut in of all producible wells where lift boats are within 500 feet of a platform until the boat is secured in place and ready to begin operations. According to BSEE, because a majority of lift boats are small when compared to the size of mobile offshore drilling units, they have lesser operational impacts and potential risks. However, BSEE has not explained the change eliminating lift boats from the rule. Some of these lift boats are large enough to warrant concern. At a minimum, BSEE should provide guidance on what to do for larger lift boats. We suggest requiring lift boats to approach platforms from the opposite side of subsea pipeline placement which we understand is the current industry-accepted practice.

Specific regulations that take into consideration the type of work the lift boat is performing before removing them from this rule could minimize unnecessary shut ins while also protecting safety and the environment.

9. Blowout Preventer Testing Intervals (FR 22143; not specified in current regulations):

BSEE has not provided any justification for soliciting comments now. To the extent BSEE is soliciting comments on cost and operational impacts, BSEE should include requests for comments on the safety and environmental consequences of changing intervals. BSEE must support any changes to the WCR with substantial statistical evidence to support proposed changes.

In the event that BSEE determines that a full-blown peer review of the existing test schedule is not practicable, the decision to change the testing schedule must, at the minimum, show the impact of the proposed changes in the context of all system risks. Relying purely on industry comment runs afoul of the wisdom offered by the Report to the President,

> "Corporations understandably encourage cost-saving and efficiency. But given the dangers of deepwater drilling, companies involved must have in place strict policies requiring rigorous analysis and proof that less-costly alternatives are in fact equally safe.... Unless companies create and enforce such policies, there is simply too great a risk that financial pressures will systematically bias decision making in favor of time- and cost savings." (Report to the President, at p. 124.)

Making a safety decision that relies primarily on industry comments would be a departure from the lessons learned from the *Deepwater Horizon* tragedy. For these reasons, BSEE should offer a justification for soliciting comments on cost and operational impacts.

10. NEPA Environmental Assessment (BSEE-2018-0002):[3]

The environmental impacts BSEE discusses in its Draft Environmental Assessment are significant in their scope and intensity, therefore, BSEE should provide an Environmental Impact Statement. The Code of Federal Regulations determines significance with respect to National Environmental Policy Act (NEPA) by considering both context and intensity. (40 C.F.R. § 1508.27.) Context means "the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality." (40 C.F.R. § 1508.27(a).) Intensity "refers to the severity of impact." (40 C.F.R. § 1508.27(b).) "An agency cannot avoid preparing an [Environmental Impact Statement] by making conclusory assertions that an activity will have only an insignificant impact on the environment." (*W. Watersheds Project v. BLM* (D. Nev. 2008) 552 F.Supp.2d 1113, 1129 [citing *Ocean Advocates v. U.S. Army Corps of Engineers* (9th Cir. 2005) 402 F.3d 846, 864].) NEPA

[3] Because there was no meaningful opportunity for comment on the Draft Environmental Assessment, the Attorney General limits his comments on the Draft Environmental Assessment with respect to the proposed WCR changes at issue in this letter.

mandates that an agency must conduct a "hard look" review of its findings and conclusions to ensure they are supported by scientific evidence. (*W. Watersheds Project*, *supra*, at pp. 1124-25, 1129; see also *Klamath-Siskiyou Wildlands Ctr. v. BLM* (2004) 387 F.3d 989, 993 ["A proper consideration of the cumulative impacts of a project requires some quantified or detailed information; . . . '[g]eneral statements about possible effects and some risk do not constitute a hard look absent a justification regarding why more definitive information could not be provided.'"].)

Because BSEE's Draft Environmental Assessment acknowledges significant risks posed by its proposed changes to the WCR, BSEE must prepare an Environmental Impact Statement.[4] The Draft Environmental Assessment discusses the potential impacts of "loss of well control, discharges of hydrocarbons to the environment, and air pollution emissions associated with testing requirements." (BSEE-2018-0002 at p. 23.) It analyzes four possible alternatives to its proposed changes to the WCR, including: Alternative 1, which is the "no action" option; Alternative 2, which implements some but not all of BSEE's proposed changes; Alternative 3, which is BSEE's proposed rule; and Alternative 4, which includes additional changes beyond those proposed.

When discussing Alternative 2, BSEE admits that "retaining the additional testing requirements and greater accumulator capacity required by existing regulations could reduce the likelihood of a loss of well control and discharge of hydrocarbons...." (*Id.* at p. 24.) Additionally, BSEE states that "greater accumulator capacity could result in enhanced operability of the [blowout preventers]... [t]he greater frequency of [blowout preventers] testing... potentially could decrease the likelihood of a loss of well control and catastrophic discharge of hydrocarbons... should the reduced testing fail to identify a blowout preventer that is not equipped to operate properly...." (*Id.* at pp. 24, 27.)

Further, BSEE acknowledges when discussing Alternative 4 "[t]he loss of real-time monitoring capabilities could increase the likelihood of a loss of well control and catastrophic discharge of hydrocarbons due to the loss of an added layer of oversight for well conditions that may provide early warnings and facilitate timely reaction and prevention." (BSEE-2018-0002 at p. 27.) Thus, BSEE recognizes that reducing accumulator capacity, blowout preventers testing frequency, and removing real-time monitoring capability increases the foreseeable risk of a "catastrophic discharge of hydrocarbons (and associated potential environmental impacts)." (*Id.* at pp. 24, 27.)

As *Deepwater Horizon* vividly demonstrated, the impacts of a catastrophic discharge are severe and affect American society as a whole. (See Report to the President at pp. 129-214.) Such impacts are significant under NEPA. Given that the proposed rule foreseeably increases the risk of significant impacts, BSEE must prepare an Environmental Impact Statement in support of its proposed changes to the WCR. (40 C.F.R. §1502.3.)

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[4] The proposed revisions to the WCR are also a "major federal action" within the meaning of 40 Code of Federal Regulations parts 1502.4 and 1508.18.

In addition, BSEE's Drat Environmental Assessment presents conclusions that are at odds with the language BSEE used in the Draft Environmental Assessment and the Federal Register, and BSEE should provide an Environmental Impact Statement to support them. BSEE states in the Federal Register that its goal in revising the WCR is to "amend, revise, or remove current regulatory provisions that create unnecessary burdens on stakeholders while *ensuring* safety and environmental protection." (FR 22128 (emphasis added).) Additionally, BSEE states in its Draft Environmental Assessment that "[t]he proposed changes were identified based in part on the fact that *they could not result in a material reduction to safety or environmental protection.*" (BSEE-2018-0002 at p. 29 (emphasis added).) However, BSEE recognizes that several of its proposed changes could increase risk for significant and foreseeable harms. Increasing risk is the opposite of "ensuring safety and environmental protection." (FR 22128.) BSEE claims that increasing rig downtime, by allowing the existing testing and oversight regime to continue, increases the possibility of spills. (*Id.* at p. 25.) In so claiming, however, BSEE ignores that the likelihood of a catastrophic hydrocarbon spill has been demonstrably lessened by the existing regulation. BSEE provides no data in support of its claim that increasing rig downtime increases the possibility of spills.

Lastly, BSEE states that "[t]he real-time monitoring requirements do not have any impact producing factors, because this monitoring is remote and passive" and that "if the requirements for real-time monitoring capabilities are removed completely, the lack of data typically collected under the real-time monitoring requirements could increase operational risk." (*Id.* at p. 27.) The substantive inconsistency in BSEE's Environmental Assessment indicates that BSEE may not be "ensuring" safety and environmental protection. And, even if BSEE's proposed changes to the WCR provide some benefits, "[a] significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial." (40 C.F.R. 1508.27(b)(1).)

Accordingly, because the proposed changes foreseeably increase the risk of significant impacts, BSEE must prepare an Environmental Impact Statement without arriving at a predetermined outcome. (40 C.F.R. §§ 1502.2(b), (g), 1502.3; see also *Friends of Fiery Gizzard v. Farmers Home Admin.* (6th Cir. 1995) 61 F.3d 501, 505 ["Where such adverse effects can be predicted, and the agency is in the position of having to balance the adverse effects against the projected benefits, the matter must, under NEPA, be decided in light of an environmental impact statement."].)

11. Review of Proposed Rules in light of the Recently Proposed OCS Leasing Program:

Finally, we previously commented on the Department of Interior's Bureau of Ocean Energy Management's (BOEM) Draft Proposed 2019-2024 Outer Continental Shelf Leasing Program (2019-2024 draft leasing program), and BOEM's Notice of Intent to publish a Draft Environmental Impact Statement for the 2019-2024 Program. (State of California's letter to Ms. Kelly Hammerle, dated March 9, 2018.) In that comment letter, we strongly opposed scheduling lease sales for any of California's OCS planning areas. We explained that including California's planning areas in the 2019-2024 leasing program would be inconsistent with the Outer Continental Shelf Lands Act. And we asserted that if BOEM incorrectly persists in scheduling leases for California's planning areas in its forthcoming Proposed Program or Final Program, it

must thoroughly analyze the impacts of doing so as required by National Environmental Policy Act. Importantly, in the 2019-2024 draft leasing program, BOEM stated that safeguards for drilling, development and production *increased* in the post *Deepwater-Horizon* era, but it did not consider the effect of any proposed changes to those safety regulations. Similarly, here, BSEE has not considered the effects of the Proposed Rule on the 2019-2024 draft leasing program. BSEE must consider the environmental impacts and safety effects of the Proposed Rule on any new or expanded leasing program.

We thank BSEE for the opportunity to provide these comments and look forward to working with BSEE to keep our OCS operations safe and environmentally protective for both humans and our precious marine resources.

Sincerely,

JAMEE JORDAN PATTERSON
Supervising Deputy Attorney General

For XAVIER BECERRA
Attorney General

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