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December 13, 2010

Department of the Interior
Bureau of Ocean Energy Management, Regulation, and Enforcement
Attn: Regulation and Standards Branch (RSB)
381 Elden Street
MS-4024
Herndon, VA 20170-4817

Re: Increased Safety Measures for Energy Development on the Outer Continental Shelf, RIN 1010-AD68; Information Collection 1010-0185; 75 Fed. Reg. 63346 (Oct. 14, 2010).

To Whom It May Concern:

On behalf of our over one million members and activists nationwide, Defenders of Wildlife, in conjunction with the Southern Environmental Law Center, hereby submits this letter in response to the Bureau of Ocean Energy Management, Regulation and Enforcement's (BOEMRE's) request for comments on its interim final rule regarding "Increased Safety Measures for Energy Development on the Outer Continental Shelf," RIN 1010-AD68, 75 Fed. Reg. 63346 (Oct. 14, 2010). Because the information collection requirements included in the interim final rule are "necessary for the proper performance of BOEMRE's functions," *id.* at 63369, we also ask that these comments be considered as part of Information Collection 1010-0185.

It is in the national interest that each of the responsible federal agencies and companies with operations on the federal Outer Continental Shelf (OCS) apply lessons learned from the tragic loss of life and serious ecosystem and economic consequences resulting from the worst environmental disaster in U.S. history, the BP Deepwater Horizon blowout and oil spill. The regulatory and safety oversights that led to this accident, the lack of preparedness for responding to the massive release of oil and methane from the seafloor, and the missteps and ineffective attempts at spill response cannot be permitted to happen again, at any water depth. For this reason, we concur with BOEMRE that any delay by the Agency in implementing these regulatory actions in response to the Deepwater Horizon incident would have further jeopardized natural resources and regional economies throughout the Gulf of Mexico and elsewhere on the U.S. OCS.

While BOEMRE's interim final rule is a first step that generally moves in the right direction of more responsible and safe OCS development, this rulemaking is not, of itself, enough to prevent further accidents nor to assure adequate response measures in the future. Accordingly, we encourage BOEMRE to move forward expeditiously to implement the additional measures it identified in the interim final rule. *See id.* at 63362-64 (Items for Future Rulemaking). In addition, we urge the agency to significantly improve the safety of both deep and shallow water drilling operations. Although the interim final rule includes some measures that apply to both

deep and shallow water operations, the focus clearly is on avoiding duplication of the particular circumstances that brought about the BP Deepwater Horizon blowout and oil spill. It is a dangerous misconception to imply that similar events leading to a loss of well control, or blowout, are only of concern in deep water. The predecessor events at Ixtoc 1 in the Gulf of Mexico during 1979-80, and Australia's 2009 West Atlas blowout in the Timor Sea, both took place in relatively shallow waters, as have other, more limited, loss of well control events around the world. Both of these shallow well blowouts took months to control. We believe that BOEMRE currently has both the authority and the obligation to take immediate regulatory action to improve offshore inspections and safety procedures, enforce stronger cementing and well control protocols, and to require improvements in the reliability factor of blowout prevention technology in any water depth.

As the reports and studies on the proximate causes and oversights leading to the Macondo well blowout have emerged, it has become increasingly clear that the BP Deepwater Horizon incident was predictable, that it was preventable, and that preparedness by the operator and the oversight agencies was seriously lacking, leading to the unwarranted consequences and protracted duration of the event. We have participated actively in the review of BOEMRE's procedures for compliance with the National Environmental Policy Act (NEPA) and its use of categorical exclusions (CEs) to exempt from searching environmental review various drilling activities, including the exploratory drilling that led to the Deepwater Horizon blowout. We will continue to engage in processes and reviews designed to ensure that this type of environmental disaster never happens again.

The government's failure to follow NEPA before the incident occurred, and it's reliance on the operators of the Macondo well to provide the estimates of flow rate from the damaged seafloor apparatus, led to understated spill volume estimates in the early days of the event. The result was unfortunate delay in preparing an accurate response scenario until long into the spill. This uncertainty led to a cascading sequence of mistaken assumptions that cost precious time needed for the requisition and deployment of response resources. The operator was, in fact, merely a lessee on a federal tract owned by the U.S. government, and as a potentially responsible party had significant incentive to under report or round down any estimates. Relying on the operator to provide flow rate estimates was not sufficient. Any and all federal assets available for spill volume estimates should have been deployed immediately at the outset of the release of hydrocarbons from the damaged riser and wellhead.

These proposed safety regulations, if fully implemented, will reduce but not eliminate the risks of environmental harm from offshore drilling activities. Previous assumptions about risks of loss of well control, particular challenges associated with deepwater drilling, appropriate measures in response to blowouts, containment and cleanup of spills, and potential scope of environmental and economic harm from offshore drilling and spills have been completely revised by the Macondo well disaster. While the safety regulations may reduce this risk going forward, it is imperative that BOEMRE reassess even this reduced risk through the ongoing supplementation of the Gulf of Mexico leasing EIS before approving new exploration plans.

In future rulemakings BOEMRE should address requirements for a successful local preparedness for wildlife response. A recent multi-stakeholder workshop on the topic of de-oiling practices for marine mammals in Seward, Alaska explored this question for polar bears in the event of an Arctic oil spill. This conference concluded that we are not ready. In the context of the Arctic, rescue and rehabilitation experiences from the *Exxon Valdez* spill, other global oil spill incidents and research, along with experiences from the "*Alaska Marine Mammal and Seabird Strandings Program*" were reviewed. The conclusion, not surprisingly, was that we need to develop Arctic best practice standards and protocols, put in place spill-ready supplies and infrastructures [possibly re-purposing existing facilities], develop and train local response teams so that they have hands-on experience in de-oiling marine mammals before a spill occurs, and build and test logistical plans for rescue response capacity in areas of oil and gas development by working with local, regional and state and tribal governments and the USFWS and NMFS as first responder agencies who manage polar bears and other potentially impacted marine mammals.

We offer the following specific comments on the interim final rule, future rulemakings, and other activities necessary to minimize both the risk and magnitude of future OCS disasters.

I. Specific Comments on the Interim Final Rule

We strongly support the provisions of the interim final rule. We emphasize the following priority items as essential to achieving the agency's stated objectives:

a) *Section 250.198(a)(3), All documents incorporated by reference "should" and "shall" mean "must".*
Since the precursor leasing, permitting, and agency review processes that led to the Macondo accident clearly played an indirect yet contributing role in the disaster, and since communication between operators and the oversight agency was significantly flawed, it is essential for all relevant documents to be conveyed to the BOEMRE in timely fashion to ensure safety of drilling operations.

b) *Section 250.198(h)(79), Part 2, Isolating Potential Flow Zones during well construction.*
Since the operators' failure to properly isolate potential flow zones played an important role in eventual loss of well control at Macondo, this element of the rule is a critical underpinning to moving toward safer operations at any water depth.

c) *Section 250.415(f), Written description of how the operator evaluated the best practices included in API RP 65-Part 2, identifying mechanical barriers and cementing practices to be used for each casing string.*
Voluntary compliance with best practices has proven inadequate to ensure safe operations in numerous cases, including the Macondo well and the 2003 BP riser break which caused a "near miss" at Thunderhorse. API best practices need to be upgraded to full and enforceable regulatory status by the agency, in all situations and at all times.

d) *Section 250.416(d), Include schematics of all control systems and control pods.*
Missing plans and schematics have been cited by operators throughout the hearings on the Macondo blowout as an important contributing factor to the failure to avert and control the disaster. Rig floor personnel and onshore supervisors must be required to have immediate access to schematics and circuit diagrams of all control systems and control pads in the event of a malfunction on the rig or on the seafloor in order to make the immediate and informed decisions that will avert loss of life, fire, and release of hydrocarbons into the marine environment.

e) *Section 250.416(e), Independent third party verification that the blind-shear rams are capable of shearing any drill pipe in the hole.*
The inherent complexity and propensity for system failure of large and complicated hydraulic equipment, the lack of a common design standard for all blowout preventer (BOP) equipment, and several other factors previously identified in the 2003 "West Report," including the ability of aftermarket mechanical modifications and additions to BOP stacks to sometimes result in false-positive tests of inoperable systems, all point toward the need for independent verification that the blind-shear rams are capable of shearing any drill pipe by a qualified independent engineer and the need for periodic testing of the BOP over time.

f) *Section 250.416(f), Independent third party verification that subsea BOP is designed for specific equipment on rig and specific well design.*
In addition to requiring independent third party verification that subsea BOP equipment is designed for specific equipment on each rig and for specific well design, we recommend that BOEMRE also implement an additional future rulemaking that includes an independent third party review and testing of any aftermarket modifications or alterations to any subsea BOP for any purpose, to ensure that such modifications do not compromise operational success of the BOP or create false readings during testing of the BOP.

g) *Section 250.416(g), Qualification for independent third parties.*
During the hearings of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, it was emphasized that training of qualified personnel to work on offshore rigs has been lagging behind the technical advancements of the equipment and activities on the OCS. A systematic qualification certification of any independent third parties is therefore essential.

h) *Section 250.416(a)(6), Certification by a professional engineer that there are two independent tested barriers and that the casing and cementing design are appropriate.*
Because problems with cementing appear to be endemic in OCS operations, and because the installation of two secure independent barriers and a sound casing design are critical to preventing a repeat of the Deepwater Horizon accident, this element of the rule is essential.

i) *Section 250.420(b)(3), Installation of dual mechanical barriers in addition to cement for final casing string.*

Dual mechanical barriers are in keeping with the recommendations for verifiable redundancy that represent the cornerstone of necessary measures going forward.

j) *Section 250.423(b), The operator must perform a pressure test on the casing seal assembly to ensure proper installation of casing or liner. The operator must ensure that the latching mechanisms or lock down mechanisms are engaged upon installation of each casing string or liner.*

Performance and documentation of a pressure test on the casing seal assembly to ensure proper installation of the casing and the liner are essential. Documentation that the latching mechanisms or lock down mechanisms are fully engaged upon installation of each casing string or liner must be mandatory.

k) Section 250.423(c), The operator must perform a negative pressure test to ensure proper casing installation. This test must be performed for the intermediate and production casing strings.

Negative pressure tests represent one of the primary ways to ensure proper casing installation after the fact, making full implementation and enforcement of this element of the rule critical.

l) *Section 250.442(c), Section 250.515(e), Section 250.615(e), Have a subsea BOP stack equipped with remotely operated vehicle (ROV) intervention capability. At a minimum, the ROV must be capable of closing one set of pipe rams, closing one set of blind-shear rams, and unlatching the lower marine riser package.*

While the verified ability to close one set of pipe rams, close one set of blind-shear rams, and unlatch the lower marine riser package using a Remotely Operated Underwater Vehicle (ROV) is critical, the time delay associated with launch and subsea deployment of an ROV will likely have enabled the full force of a major blowout to already clear the well bore and result in excessive pressures and a debris stream at the BOP that can complicate efforts to shut in the well. Preventive and precautionary measures are a priority, and immediate shut-in capability will always be more critical than after-the-fact ROV response, thus this initiative should go further toward ensuring more immediate wild well shut-in capabilities, either in the current rulemaking or in a future rulemaking.

Section 250.442(c), Section 250.515(e), Section 250.615(e), Maintain an ROV and have a trained ROV crew on each floating drilling rig on a continuous basis.

We support this element of the rule and further recommend that a minimum deployment time for each ROV be part of this or a future rule. Preventive and precautionary measures are a priority, and immediate shut-in capability will always be more critical than a belated ROV response. But as we can see with the Deepwater Horizon blowout, when those initial attempts at spill prevention and shut-in fail, fully capable on-scene ROV's with adequate hydraulic capacity are essential.

m) *Section 250.442(f), Section 250.515(e), Section 250.615(e), Provide autoshear and deadman systems for dynamically positioned (DP) rigs.*
Autoshear and deadman systems are necessary in a range of emergency situations and particularly in the event of a forced evacuation of the rig. In addition, an entirely new category of device design that would enable reliable remote communication with the BOP stack should be pursued via aggressive research and development by all operators. If sonic switches are not deemed effective due to the density of release plumes and excessive subsea noise generated by the blowout itself, then the development and deployment of a different kind of remote control communication mechanism - or alternate transmission frequency - to reliably activate the BOP, will be needed on an urgency basis.

n) *Section 250.442(e), Section 250.515(e), Section 250.615(e), Establish minimum requirements for personnel authorized to operate critical BOP equipment.*
We strongly support certification and annual recertification for this critical staff position.

o) *Section 250.446(a), Section 250.516(h), Section 250.516(g), 250.617, Require documentation of BOP inspections and maintenance according to API RP 53.*
We believe that API-recommended practices have not proven to be a standard that has generated full and verifiable compliance by all operators, and that the codification of API-recommended practices via federal regulations will be needed to ensure reliable compliance going forward. This should take place in the current rule, or, at a minimum, in a future rule.

p) *Section 250.449(j), Section 250.516(d)(8), Section 250.616(h)(1), Test all ROV functions on the subsea BOP stack during the stump test. Test at least one set of rams during the initial test on the seafloor.*
A test of all ROV functions on the subsea BOP stack during the stump test would appear to have had at least the potential to prevent the Macondo accident from escalating as it did.

q) *Section 250.449(k), Section 250.516(d)(9), Section 250.616(h)(2), Function test autoshear and deadman systems on the subsea BOP stack during the stump test. Test the deadman system during the initial test on the seafloor.*
We support inclusion of these essential tests in the interim final rule.

r) *Section 250.451(i), If the blind shear or casing shear rams are activated in a well control situation, the BOP must be retrieved and fully inspected and tested.*
The ability of activation of blind shear or casing shear rams to trigger consequences in which these devices then subsequently fail to successfully and reliably operate in a future emergency incident requires their retrieval and complete inspection and testing to ensure they were not damaged during the initial seafloor activation.

s) *Section 250.456(j), Before displacing kill-weight drilling fluid from the wellbore, the operator must receive approval from the District Manager.*
Kill-weight drilling fluid is the first line of defense to prevent loss of well control, making it essential that any decision to replace drilling fluid with seawater, as was the case at Macondo, receive full review by the operators and written sign-off and approval from the District Manager.

t) *Subpart O, Section 250, 1500-250.1510, Requires that rig personnel are trained in deepwater well control and the specific duties, equipment, and techniques associated with deepwater drilling.*
Specialization in deepwater well control and the specific duties, equipment, and techniques associated with deepwater drilling are essential skillsets to have in place on any rig operating in deep water.

u) *Section 250.1712(g), Section 250.1721(h), Certification by a professional engineer of the well abandonment design and procedures; that there will be at least two independent tested barriers, including one mechanical barrier, across each flow path during abandonment activities, and that the plug meets the requirements in the table in Section 250.1715.*
We agree that responsible management of any operation will require certification by a professional engineer of the well abandonment design and procedures and will further require that there will be at least two independent tested barriers, including one mechanical barrier, across each flow path during abandonment activities.

II. Further Regulatory and Non-Regulatory Measures Needed

As explained in the preamble to the interim final rule, on June 2, 2010, the Secretary of the Interior directed BOEMRE to adopt the measures contained in the Safety Measures Report and to implement them as soon as possible (75 Fed. Reg. at 66346). The Safety Measures Report recommended a series of steps to improve the safety of offshore oil and gas drilling operations in U.S. Federal waters. The Safety Measures Report recommended a number of specific steps designed to ensure sufficient redundancy in BOPs, promote well integrity, enhance well control, and facilitate a culture of safety through operational and personnel management.

In addition to measures pursued by BOEMRE via this and future rulemakings, and through the less-effective mechanism of Notices to Lessees (NTLs), BOEMRE should enact a hiatus in future permits and approvals for Floating Offshore Storage and Processing Vessels (FOSOs), and should also preclude further approvals of FOSOs proposed for the Gulf of Mexico prior to the Deepwater Horizon incident, due to the spill threat posed by these facilities and the demonstrated lack of effective response capabilities for large oil releases evidenced during the Deepwater Horizon event.

Further, the interim final rule fails to address the issue of mitigating the hazards associated with fire prevention on offshore drilling rigs in any water depth. The recent September 2, 2010

explosion and fire on the Mariner Energy Vermillion Bay installation in the Gulf of Mexico provided yet another wake-up call about this topic of concern. Because of the apparent causal role that inappropriate vapor management played in the fire and explosion aboard BP's Deepwater Horizon, BOEMRE should carefully review, and take into account in a future rulemaking, some of the regulatory findings and equipment and practices modifications that followed the tragic 1988 Piper Alpha rig fire in the North Sea.

The pending final report of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling (Reilly/Graham Commission) is also likely to inform further necessary steps toward safer operations on the OCS. Steps toward operational safety as recommended by the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling in their draft documents can be anticipated. Since this is a matter of utmost urgency, no undue delay in BOEMRE's implementation of the Commission's recommendations via rulemaking should take place. Notice and Comment rulemaking, as recommended by the Safety Measures Board, will likely advance some of these additional necessary actions, but an appropriate legislative response by the U.S. Congress will also be necessary to satisfy many of the remaining needed measures.

In addition to the provisions of the interim final rule, additional measures needed to ensure the safety of shallow water drilling remain unaddressed. We recommend that future rulemaking(s) take place to address safety and well-control issues related to shallow-water operations, since both the three-month 2009 Montara blowout in Australia's Timor Sea, and the nine-month 1979 Ixtoc blowout in Mexican waters, both occurred on shallow drilling operations. At Ixtoc, in efforts analogous to those again attempted on the Macondo well 31 years later, the list of ineffective methods attempted to remediate the leak included lowering a cap over the well, failing at plugging the leak with a "junk shot", use of huge quantities of dispersants, and a months-long effort in an attempt to drill relief wells.

We concur with the *"Overview of Requirements in the interim first rule"* which states, with respect to future rulemakings: *"Other longer-term safety measures and performance-based standards recommended in the Safety Measures Report will be analyzed for implementation in future rulemakings. Information from the many investigations and other information sources will also be analyzed and considered in future rulemakings."* Further rulemakings will inevitably be needed to further clarify and refine safeguards that can decrease the likelihood of a blowout during drilling operations on the OCS, further address well bore integrity and well-control equipment failures at the Macondo well, and further respond to lack of redundancy in BOP functioning.

We further emphasize that future rulemakings related to new blind shear ram redundancy requirements are important to offshore drilling safety, and that the installation of a second set of blind shear rams or the equivalent, even if implementation requires a major modification to the BOP stack for most rigs, will be necessary and should be the focus of an additional rulemaking at the earliest possible opportunity. Operators should be allocated a reasonable - but not excessive - amount of time, once this new rule is promulgated and published, to modify equipment to ensure compliance. In addition, a future rulemaking specifying the installation of a set of casing shear rams capable of shearing any casing in the hole, should be promulgated at the

earliest possible opportunity. We emphasize the critical importance of assuring full redundancy in BOP stacks operating in all U.S. OCS waters at any water depth, particularly in light of the fact that the BOPs for the relief wells drilled to intercept the Macondo well also encountered unexpected performance problems, initially failing to pass new testing procedures developed in response to the Safety Measures Report, including failure of the deadman and autoshear functions. These multiple failures do underscore the need to remedy the obviously flawed reliability of the BOPs to adequately safeguard the lives of workers and protect the environment from spills in response to a large blowout. We concur that the importance of these systems in preventing catastrophic blowouts and oil spills is indicative of the fact that genuine harm could result from delay. BOEMRE was correct in concluding that immediate additional regulations are needed to better ensure the reliability of these systems in order to protect the lives of workers, human health, public trust wildlife resources, and the environment.

Further BOEMRE rulemakings to enhance tighter primary cementing practices, increase federal wild well intervention and response capabilities, and better address the capture and disposition of oil released from a deepwater well blowout at the seafloor, as recommended in the current interim final rule, will be necessary in the future. We also support BOEMRE's June 18, 2010 NTL No. 2010-N06 requiring prospective operators to provide a blowout scenario detailing highest potential release volume of liquid hydrocarbons, estimated flow rate, estimated total volume, estimated maximum duration, potential for well to bridge over, likelihood for surface intervention to stop the blowout, and anticipated maximum and minimum travel times until arrival - and minimum distance from primary well site - for the nearest potential capability for relief well intervention.

We believe that an additional "safety case" requirement will also necessitate an additional rulemaking, as soon as practicable, to establish a comprehensive risk assessment and mitigation process to manage each drilling contractor's controls related to health, safety, and environmental aspects of operations. This will, as the present interim final rule suggests, likely require future implementation via a separate rulemaking process as directed in the Safety Measures Report.

In addition to the regulatory suggestions listed above, We further encourage the following additional measures be undertaken to increase worker safety, protect sensitive ecosystems and marine and intertidal habitats, and to ensure a more adequate, rapid response to future OCS disasters:

1) Research, development and implementation of a new type of fail-safe backup valve shut-in device that would reliably preclude loss of well control in the event of the failure of the blowout preventer in any water depth. Measures beyond a future requirement of a second blind shear ram will likely be necessary.

2) Pre-deployment of a rig capable of drilling a relief well at the appropriate water depth in a location within a certain reasonable response time of every drilling site.

3) Strict requirements that oil spill contingency plans be certified by the U.S. government as

capable of immediate response in the event of a "worst case" well blowout, riser break, damaged floating storage vessel, tankship spill, or other cause of a major hydrocarbon release into the marine environment.

4) Research and development of new types of biodegradable dispersants, their comprehensive testing and certification by EPA for use in mass quantities under pre-defined appropriate conditions, their manufacture in commercial quantities, and their pre-deployment at locations of possible future need. The extensive application of the controversial chemical dispersant Corexit during the Deepwater Horizon event, both at the sea surface via aerosol from aircraft, as well as the unprecedented and unproven injection of Corexit into the flow stream of the blowout at the seafloor, must be fully investigated by unbiased parties, to ensure that this controversial methodology does not become a routine or accepted practice in the future. Any and all other promising and potentially-useful surfactants, bacteriophages, or benign chemical agents should be subjected to a full regulatory evaluation in an orderly fashion, with the goal of testing and proving more benign remedial chemical agents for future applications.

5) Engineering and development of large ship-scaled oil skimmers for use in realistic wind, wave, and ocean current conditions, to be certified by the U.S. Coast Guard and built and operated by the industry.

6) Immediate development and manufacture of more effective oil spill containment technologies and sorbent booms, and their pre-deployment in storage facilities in geographic areas of likely future need.

7) Peer-reviewed scientific studies to monitor the impacts of the BP Deepwater Horizon disaster on human communities, on fishery resources, and on the full range of biological resources over the coming years. Several vulnerable wildlife populations were impacted by the Deepwater Horizon spill, and long-term monitoring will be necessary to assess the level of damage and to assist in the design of mitigation and restoration measures both for the Gulf and for future spills.

8) Required testing of spill response technology in real world conditions and mandatory certification as to the measurable response impact of response equipment and plans.

9) A minimum requirement for response capacity onsite or within reasonable distance such that operators have capacity to recover a certain minimum percentage of oil spilled.

10) Bonding requirements sufficient to cover the cost of response and cleanup in the event of a blowout or other spill are necessary.

We welcome the December 1, 2010 announcement by Interior Secretary Salazar that the Administration will not open new areas along the U.S. Atlantic coast and in the Eastern Gulf of Mexico to OCS leasing until at least 2017. We acknowledge that the existing bipartisan 2006

Gulf of Mexico Energy Security Act compromise law (GOMESA) does protect much of the Eastern Gulf of Mexico from new OCS leasing until at least 2022. And until sound peer-reviewed science is conducted to ensure safe OCS operations and effective oil spill cleanup capabilities in the prevailing darkness, seasonal storms and high seas, and broken sea ice conditions prevalent in the Arctic Ocean, no new permits for OCS exploratory, delineation, or development activities or additional new leasing should be granted in the Arctic. The recent decision by BP to wisely defer their own activities at the Liberty installation, on Alaska's North Slope, pending additional detailed internal review of the site's engineering and safety measures, provides further compelling evidence that Arctic oil and gas activities are of particular concern and need to be deferred. Bristol Bay should be permanently protected from any OCS leasing due to the economic dependence of this region on the world-class fishery resources found there.

Finally, we also support the draft staff finding, announced on December 3, 2010, by the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, that recommends: *"Long-term monitoring of potential harm to Gulf seafloor habitats, the water column, and valued species – blue fin tuna, shrimp, and many others – is critical to successful restoration. Coastal and Marine Spatial Planning can optimize marine resources use and lessen conflict among users. It now has the backing of a Presidential Executive Order. Congress should fully appropriate FY 2011 White House request to fund regional planning bodies. Marine Protected Areas should be considered as possible "mitigation banks" to help offset harm to the marine environment; should be aggressively vetted in public. Also: National Marine Sanctuaries pass through a rigorous public process and provide protection across a number of metrics. Current budget restrictions should be reconsidered to allow proposals for new sanctuaries"* (National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, December 3, 2010)."

III. Conclusion

We appreciate the opportunity to submit these formal comments on the interim final rule on behalf of Defenders of Wildlife and its members, as well as on behalf of the Southern Environmental Law Center. It should be the foremost goal of the interim final rule to preclude a future event in which preventable missteps by the federal agencies of jurisdiction and the operators are ever again allowed to lead to loss of well control and multiple fatalities, inaccurate reporting of spill flow rates, unplanned and ineffective attempts to cap the flow from a damaged well, inadequate spill response measures and equipment, in-situ burning leading to as-yet-unstudied long-term impacts, and massive application of controversial chemical dispersants.

Even now, as these comments are being submitted, oil remains in damaging quantities among Gulf Coast wetlands and on the seafloor, a once-famous Gulf of Mexico seafood industry remains tainted by the lingering stigma of the BP spill, and Gulf Coast businesses and residents that continue to suffer untold economic harm still await compensation. Complex industrial accidents represent a composite of many causes, and the interim final rule is an initial step toward beginning to address one, but not all, of the proximate causes of the Deepwater Horizon event. We look forward to reviewing and commenting on future rulemakings that address other

parts of the complex of failures leading to this disaster.

Pursuant to the OCS Lands Act, the Secretary of Interior has an affirmative obligation to ensure that drilling operations undertaken on the OCS are conducted in a manner that is safe for the human, marine, and coastal environment. We encourage BOEMRE to defend the steps it has undertaken in the interim final rule from any and all attempts at erosion, and to further strengthen preventive regulatory, inspection, and engineering measures to ensure that nothing like the Deepwater Horizon disaster is ever repeated.

Sincerely,

Richard A. Charter
Senior Policy Advisor, Marine Programs
Defenders of Wildlife

cc: Cheryl Blundon, BOEMRE