Congress of the United States
House of Representatives
Washington, D.C. 20515

April 11, 2012

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Salazar:

In December, Congress passed the Consolidated Appropriations Act for FY2012, which included a provision eliminating the authority of the Environmental Protection Agency (EPA) to control air pollution from offshore drilling off the North Coast of Alaska and authorizing the Department of the Interior (DOI) to address such pollution.[1] We opposed this transfer of authority, given deficiencies in DOI's approach to overseeing air pollution from offshore drilling. We are writing to urge DOI to issue new regulations to address those deficiencies before permitting additional exploration and production in the unique and sensitive environments of Alaska's Beaufort and Chukchi Seas.

In 1988, the Outer Continental Shelf Lands Act (OCSLA) gave DOI the responsibility to regulate air pollution from offshore drilling activities, including drilling off the coast of California. The state of California, local air districts, and California businesses roundly criticized DOI's approach as inadequate to control offshore emissions that were contributing to onshore air pollution problems. During the House debate on the 1990 amendments to the Clean Air Act, a bipartisan group of lawmakers forged a compromise to give EPA the authority to control air pollution from offshore drilling sources in all coastal areas except for parts of the Gulf of Mexico.[2]

For more than two decades, DOI has not corrected the deficiencies that rendered its framework for controlling offshore air emissions inadequate for the state of California, leaving us concerned that DOI's current approach also would be inadequate for Alaska. DOI's new authority in Alaska's coastal waters offers the Department an opportunity to update its air pollution requirements for offshore drilling and to ensure that those regulations are sufficient to protect the fragile Arctic environment.

We are especially concerned about DOI's plans to regulate air emissions associated with drilling in the Arctic given the recent testimony of Bureau of Ocean Energy Management (BOEM) Director Tommy Beaudreau at a House Natural Resources Committee hearing. At a

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[1] Section 432, Consolidated Appropriations Act of 2012 (P.L. 112-74).
[2] Section 801 of the Clean Air Act Amendments of 1990.

hearing of the Subcommittee on Energy and Mineral Resources on March 8, 2012, Director Beaudreau responded to a question from Representative Rush Holt asking whether the Department planned to issue new regulations to implement its new authority by stating "[the review] will be based on application of our existing regulations tailored to the Arctic as well as our NEPA review, which will also evaluate air quality as part of our environmental assessment of any plan."[3] We are concerned that simply applying the Department's existing regulations to the Arctic would not sufficiently protect air quality. We are similarly concerned about statements that seem to imply that DOI has already decided not to issue new rules for emissions from drilling in the Arctic.

We offer the following recommendations for new rules to control air pollution from offshore drilling operations in the Arctic and other coastal areas:

1) Require all major offshore drilling operations to meet specific air pollution requirements.

Under the Clean Air Act, an offshore drilling operation that will emit at least 250 tons per year of a pollutant, no matter the distance from shore, is considered a "major" source of air pollution. EPA requires each applicant for a major source permit to identify the pollution reduction technology that will be employed to reduce emissions and to demonstrate that any new emissions from offshore drilling will not cause a violation of air quality standards.

In contrast, DOI requires an offshore drilling applicant only to estimate its projected air pollution as part of its drilling exploration plan.[4] DOI requires no further air quality analysis or any other action to reduce pollution if the total emissions of each pollutant fall under a certain threshold, as determined by the distance from the shoreline.[5] These exemption thresholds have not been updated since 1980. Since that time, EPA has issued more protective ambient air quality standards and air quality modeling has improved dramatically, making the exemption thresholds outdated and unprotective.

In the Chukchi Sea, EPA issued an air permit to Shell to drill up to six wells 70 miles off the coast. EPA issued this permit after extensive information exchanges with the company and concerned stakeholders, which caused Shell to find ways to lower its emissions.[6] If DOI had

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[3] Testimony of Tommy P. Beaudreau, Director, Bureau of Ocean Energy Management, Before the Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, *Hearing on the Effect of the President's FY2013 Budget and Legislative Proposals for the Bureau of Ocean Energy Management (BOEM) and Bureau of Safety and Environmental Enforcement (BSEE) on Private Sector Job Creation, Domestic Energy Production, Safety and Deficit Reduction*, 112th Cong. (Mar. 8, 2012).
[4] 30 CFR 250.218.
[5] 30 CFR 250.303(d).
[6] *See* U.S. EPA, *Technical Support Document: Review of Shell's Supplemental Ambient Air Quality Impact Analysis for the Discoverer OCS Permit Applications in the Beaufort and*

been the permitting authority, Shell's operations would have been exempt from any requirement to reduce their emissions, allowing thousands of tons of additional nitrogen oxides, sulfur dioxide, and volatile organic compounds into the air.[7]

2) Require offshore drilling operations to account for emissions from drilling support vessels.

Under the Clean Air Act, EPA requires a drilling applicant to account for emissions from vessels servicing a drilling operation when determining whether a proposed operation is a major source and whether it would affect attainment or maintenance of air quality standards. In contrast, DOI regulations do not clearly require operators to include emissions from all support vessels when determining whether the project falls below the exemption threshold.[8] As a result, DOI may not be considering the full quantity of emissions before exempting an operation from additional air quality requirements.

This could have a profound effect in the Arctic. Emissions from support vessels needed for proposed drilling operations in the Arctic, such as icebreakers and oil spill response vessels, are substantial. Shell estimates that emissions from support vessels would comprise 80-90% of the pollution from its proposed drilling operations in the Chukchi and Beaufort Seas.[9]

3) Measure air quality impacts at the source of the pollution, not onshore.

Under the Clean Air Act, EPA requires both onshore and offshore drilling sources to demonstrate compliance with air quality requirements at the source of the pollution. In contrast, DOI estimates an offshore drilling operation's air quality impacts based on the diluted quantity of pollution assumed to reach the shore rather than the true emissions at the source. DOI's current approach removes air quality protections for near-shore areas that have extensive human activity. In Alaska, native populations use these offshore areas for whaling and fishing. As one Inupiat Native testified before the Energy and Commerce Committee:

Chukchi Seas (June 24, 2011). Tables 2 and 3 on page 8 show how projected emissions declined from the original permit application to the revised application.

[7] *See* Shell, *Revised Outer Continental Shelf Lease Exploration Plan, Chukchi Sea, Alaska* (May 2011) (online at www.boem.gov/ShellChukchi2012/). Table 7.e-1 on page 7-10 shows that Shell's operations would be exempt under existing Interior regulations.

[8] DOI guidance documents to oil and gas operators for submitting explorations plans and development plans take into account air emissions from vessels supporting drilling operations. *See* DOI, Forms Used by Permittees, Lessees and Operators, Form BOEM-0138 and Form BOEM-0139 (online at www.gomr.boemre.gov/homepg/forms/frmindx.html).

[9] U.S. EPA, *Technical Support Document Review of Shell's Supplemental Ambient Air Quality Impact Analysis for the Discoverer OCS Permit Applications in the Beaufort and Chukchi Seas* (June 24, 2011); *Technical Support Document Review of Shell's Ambient Air Quality Impact Analysis for the Kulluk OCS Permit Application Permit No. R10OCS030000* (July 18, 2011).

> The Inupiat culture is intricately tied to the Arctic Ocean. We spend much of our time on the water – fishing, hunting and otherwise feeding our families. Our people have used the Arctic Ocean since time immemorial for our subsistence practices. We don't stay on land.[10]

4) Ensure opportunities for public comment on a drilling applicant's air pollution analysis.

When EPA issues a draft air permit for a proposed drilling operation, the public has an opportunity to comment on the permit requirements and the potential impacts of new emissions. EPA must respond to comments as part of the process of issuing a final permit.[11] In contrast, DOI regulations do not require public comment on an offshore drilling exploration plan or the applicant's air quality analysis contained in that plan. DOI has the discretion to allow public comment on an exploration plan, but the process is not outlined in regulation.

5) Ensure the Arctic's unique characteristics and vulnerabilities are accounted for in permitting regulations.

The Arctic has unique characteristics and vulnerabilities. For example, black carbon, or soot, contributes to warming average global temperatures and is one of the most important climate forcing pollutants after carbon dioxide.[12] Black carbon emissions result from the incomplete combustion of fossil fuels, as can occur from the diesel engines used in seagoing vessels or in drilling operations. Black carbon emitted in the Arctic has more significant impacts than when emitted in the mid-latitudes. In the Arctic, black carbon settles on snow, sea ice, and glaciers. It absorbs sunlight, reducing the amount of solar radiation the earth is able to reflect back into space. This "snow albedo" effect increases warming experienced in the Arctic. The result is that the Arctic climate is changing faster than anticipated, summer sea ice is declining and temperatures are increasing.[13] The Interior Department should ensure that its air permitting regulations take into account the climate impact of black carbon emissions from offshore drilling activities in Alaska's coastal waters.

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[10] Testimony of Rosemary Ahtuangaruak before the Subcommittee on Energy and Power, Committee on Energy and Commerce, *Hearing on the Jobs and Energy Permitting Act of 2011* (Apr. 13, 2011).

[11] The public is able to comment as part of the broader NEPA review of the environmental impacts of lease sales, but these reviews do not model or address the air quality impacts of specific drilling operations.

[12] Intergovernmental Panel on Climate Change, *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* (Apr. 2007).

[13] Press release, National Oceanic and Atmospheric Administration, *NOAA joins international effort to track black carbon in the Arctic* (Apr. 18, 2011) (online at www.noaanews.noaa.gov/stories2011/20110418_blackcarbon.html).

Shifting oversight from one branch of the federal government to another should not result in more air pollution and fewer protections for the Alaskan people and Native Alaskans in particular. We therefore urge you to promulgate regulations to implement your new authority under the Consolidated Appropriations Act to ensure that DOI provides Native Alaskans and the Arctic environment with a level of protection commensurate to what EPA has provided under the Clean Air Act.

Thank you for your consideration of this request.

Sincerely,

Henry A. Waxman
Ranking Member
Committee on Energy and Commerce

Edward J. Markey
Ranking Member
Committee on Natural Resources

Bobby L. Rush
Ranking Member
Subcommittee on Energy and Power
Committee on Energy and Commerce

Rush Holt
Ranking Member
Subcommittee on Energy and
Mineral Resources
Committee on Natural Resources